



14 April 2015

## UKPHR's response to the Government's Consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review

UKPHR welcomes this opportunity to respond to the Government's consultation on implementing key aspects of Sir Robert Francis' review of "whistleblowing" in the NHS.

Sir Robert's accounts of the experiences of NHS employees who raised concerns about patient safety and suffered immense personal and professional harm for doing so are both saddening and shocking. His recommendations rightly concentrate on removing this harm (and the fear of such harm), focusing on patient safety and improving the performance of employing organisations.

In doing so, Sir Robert has enunciated twenty principles, gathered into five themes, and these UKPHR endorses and would wish to help ensure are embodied into all relevant future healthcare practice.

UKPHR particularly emphasises the importance of all healthcare employees working to a clear ethical code of conduct and in this respect commends Principle 6 and the culture of reflective practice. This reminds all staff of their personal responsibility for their actions and the need to be appreciative of the impact their conduct will have on patient safety.

We welcome Principle 16 and the call for coordinated regulatory action. As a regulator itself, UKPHR wishes to have close, constructive relationships with other regulators of healthcare professionals and would welcome a model protocol or Memorandum of Understanding for use by all relevant regulators setting out the actions each will undertake in order to be in compliance with Sir Robert's recommendations.

UKPHR also welcomes Principle 20 and Sir Robert's call for extending legal protection to more groups of workers. We particularly support his call for students working towards a career in healthcare, for example Registrars who are in a training programme and are not currently regulated by any regulator, to be covered by the legislation protecting "whistleblowers".

## UKPHR's answers to the Consultation Questions

### **Question 1:**

Do you have any comments on how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented in an effective, proportionate and affordable way, within local NHS healthcare providers?

In considering this question, we would ask you to look at all the principles and actions and to take account of local circumstances and the progress that has already been made in areas highlighted by "Freedom to Speak Up".

### **Answer:**

We believe that all twenty principles are valid and need to be applied. Some can only be taken forward by action at the centre, for example, extending the legislative protection for "whistleblowers", whereas for others it is necessary for every employing organisation to implement as well, for example the recommendations relating to culture.

There is a need for central direction and guidance, for example in the form of templates and standard procedures, but otherwise there needs to be a firm duty placed on all employing organisations to put in place systems that will ensure that the twenty principles are applied routinely and effectively in their organisations. They should be required to account in their reporting obligations for their performance in putting in place the necessary actions and procedures. Systematic monitoring and evaluation should also be routine to ensure that the actions and procedures are effective and the desired outcomes, in terms of patient safety, are being met.

For there to be national oversight and consistency, Sir Robert's recommendation for an Independent National Officer must be implemented by Government.

### **Question 2:**

Do you have any opinions on the appropriate approach to the new local Freedom to Speak Up Guardian role?

### **Answer:**

The recommendation for the role of Freedom to Speak Up Guardian is important in completing the right structure, with linkages from workplace all the way through to Government, to ensure that Sir Robert's changes are fully implemented.

### **Question 3:**

How should NHS organisations establish the local Freedom to Speak Up Guardian role in an effective, proportionate and affordable manner?

### **Answer:**

Whilst some aspects of PALS were effective in some NHS organisations, this approach ultimately failed to avert the severe problems that Sir Robert has witnessed and describes in his review. There are lessons to learn from the PALS approach: there has to be some distance between the patient safety role and the NHS organisation's management, the role has to be properly resourced and the Guardian must be visible and the voice of the Guardian must be heard in all the right places (this means having appropriate access and powers to act and/or escalate issues). Local partners ought to have some flexibility as to the right structure for the role and its support in order for the role to fit with other local arrangements and to ensure any efficiencies through co-location and/or co-working can be achieved.

**Question 4:**

If you are responding on behalf of an NHS organisation, how will you implement the role of the Freedom to Speak Up Guardian in an affordable, effective and proportionate manner?

**Answer;**

Not applicable.

**Question 5:**

What are your views on how training of the local Freedom to Speak Up Guardian role should be taken forward to ensure consistency across NHS organisations?

**Answer:**

The core content of training programmes should, for consistency, be determined centrally but with the option for local adaptation according to local needs in order to avoid a totally top-down, inflexible approach. It is possible that specific qualifications will be developed later both nationally and locally and this is to be encouraged provided that the core content of the education and training is approved.

Employers of healthcare workers often have difficulty in freeing up working time for necessary training. Government needs to recognise this and where part of the problem is resource availability, Government has a responsibility to provide additional funding where it imposes additional training requirements. There is a need for providers of training to be flexible and innovative in the delivery of training in order to fit with the other work-related needs of employers and their employees.

**Question 6:**

Should the local Freedom to Speak Up Guardian report directly to the Independent National Officer or the Chief Executive of the NHS organisation that they work for?

**Answer:**

For the reasons given in answer to Question 3, UKPHR believes that Guardians should be required ultimately to report to the Independent National Officer rather than to local employing organisations. However, employers should be entitled to a “no surprises” approach to reporting given that the whole thrust of these changes is to achieve culture change, including, as Sir Robert put it, nipping matters in the bud.

**Question 7:**

What is your view on what the local Freedom to Speak Up Guardian should be called?

**Answer:**

Of the three options suggested in the consultation paper, the Freedom to Speak Up Guardian is UKPHR’s favoured title. A title of Independent Patient Safety Champion would rightly focus on the primary purpose of this role: patient safety. However, as a title it omits any mention of the workforce whose members will be a key audience of the Guardian. Conversely, the title Independent Staff Concerns Advocate omits from the title the necessary focus on patient safety. UKPHR therefore suggests Freedom to Speak Up Guardian should be the title with perhaps a nationally agreed strapline that reflects Sir Robert’s over-arching principle – to foster a culture of safety and learning in which all staff feel safe to raise a concern.

**Question 8:**

Do you agree that the Care Quality Commission is the right national body to host the new role of Independent National Officer, whose functions are set out in principle 15 of the Freedom to Speak up report?

**Answer:**

Yes.

**Question 9:**

Do you agree that there should be standardised practice set out in professional codes on how to raise concerns?

**Answer:**

Yes, as we set out in our answer to Question 1.

## About UKPHR

UK Public Health Register (UKPHR) was set up as a result of a tri-partite public health community initiative, supported by the Department of Health and the Chief Medical Officer in 2003. It is a Company limited by Guarantee operating a voluntary, accredited register of public health specialists and practitioners.

At its outset in 2003, UKPHR was intended to provide a regulatory home for public health specialists who were neither doctors nor dentists (and therefore not already statutorily regulated by the General Medical Council and the General Dental Council). Twelve years on, the UK's public health leaders are much more multi-disciplinary as a result of the 2003 initiative and employers, including local authorities, advertise top posts in public health as "must be registered by UKPHR or General Medical Council or General Dental Council".

Approximately one-half of the public health specialists working in the UK are today registered by UKPHR.

UKPHR piloted practitioner registration in 2011, initially in 4 locations around the UK. Today, there are public health practitioner registration schemes in East England, Kent, Surrey & Sussex, London North-Central & East, North East England, Thames Valley, Wales (with arrangement for Northern Ireland practitioners to register also), Wessex, West England, West Midlands and West Scotland.

**Contact**

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