

Department of Health

28 January 2013

Dear Sirs

Consultation on strengthening the NHS Constitution

Thank you for the opportunity to comment on your consultation. I have pleasure in responding on behalf of Action against Medical Accidents (AvMA) – the charity for patient safety and justice.

We would like to express our support for the principles set out in the NHS Constitution. We do not intend to make detailed comments on the proposed wording. We have no objections to these. However, we want to concentrate on the most important aspect of all – how the NHS Constitution can be genuinely strengthened so that it has a real and meaningful impact on ensuring its principles are lived up to. We also think it is vital that patients or their carers/advocates can seek redress for failures to adhere to the Constitution, and organisations to be held to account for such failures.

We find the wording of your consultation question number 16 “how the NHS Constitution can be given greater traction” rather ominous. It implies that there is not an intention to give the Constitution real teeth, but rather as the dictionary defines the word “traction” – “popularity” or “acceptance”. We firmly believe that pledges and rights in the NHS constitution should have more force than that.

Under the existing legislative framework NHS bodies simply need to “have regard to” the NHS Constitution. This is nowhere near a strong enough safeguard for patients. Consideration should be given to changing the wording in the statute to “comply with”. Guidance should be issued to all NHS Bodies about their role in upholding the Constitution, both as providers and commissioners of healthcare. This guidance should include offering the NHS Complaints procedure as a means of challenging breaches of the NHS Constitution and providing patients with redress.

We recommend that every NHS Body has to report publicly on an annual basis on how it has performed with regard to the Constitution. This should include any breaches in living up to the Constitution including complaints about this. Commissioners of NHS services should also have to report annually on steps they have taken with regard to provider organisations'/primary care practitioners' breaches of the code. The NHS Commissioning Board should do the same with regard to commissioning groups. The information should be readily available to the public.

Yours faithfully

Peter Walsh

Peter Walsh
Chief Executive