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Dear Claire

Consultation Response: Local Healthcare Bill

The Royal College of Nursing (RCN) is the UK's largest professional association and union for nurses with around 390,000 members, of which over 37,500 are in Scotland. The majority of RCN members work in the NHS, with approximately a quarter working in the independent sector. RCN is a charity registered in Scotland and we are committed to provide public benefit in the delivery of our work. We engage locally, nationally and internationally to promote standards of care, and the interests of patients and of the profession. In addition, the RCN is a major contributor to the development of nursing practice, standards of care and health policy. Nurses and health care support workers make up the majority of those working in health services and their contribution is vital to delivery of the Scottish Government's health policy objectives.

RCN Scotland supports this national consultation on the influence of patients and the public in improving NHS services, including through the development of enhanced roles in the formal governance structures of territorial NHS Boards. We will endorse greater public and patient involvement in the NHS where that participation is meaningful, sustainable and is within the ethos of a mutual NHS co-owned by patients, public and staff. We do not believe that direct elections will achieve this.

We consider that direct elections risk bypassing current democratic process, diminishing the development of existing engagement processes, and distorting the potential for genuine mutual partnership between patients, public and staff. However, enhancing public and patient roles in NHS Scotland is necessary and will require deep-seated change. We believe that genuine, accountable power can be placed in the hands of local communities by building on much of the good work that has begun, but has yet to be fully developed. As such, we call on the Government to:

1. Create a new public / patient stakeholder Board post nominated from the membership of the existing Public Partnership Forums (PPF) of each Board's Community Health Partnership / Community Health & Care Partnership (CHP)

2. Invest in supporting CHPs across Scotland to develop their local engagement and to build the skills of patient and public members of PPFs to discharge current strategic and future governance duties
3. Re-examine the role of local councillors in NHS Boards to ensure they are fully able to discharge their duties as elected representatives of local people through their existing NHS corporate governance function
4. Re-examine the process for open selection to non-executive lay member posts
5. Ensure the new Independent Scrutiny Panel processes give meaningful opportunities for local communities to interrogate the decision-making of territorial Boards
6. Clarify how opinions gathered through the national Patient Experience Programme will be used to influence decision-making at Board level, including but not limited to, revised NHS performance management targets
7. Ensure all current opportunities for local people to engage in NHS decision making are better publicised

Representing a mutual NHS

RCN Scotland acknowledges this Government's strong support for partnership working within the framework of co-ownership through a mutual NHS. NHS services are delivered at the inter-face between staff and patients and it is only right that there should be a place for both in influencing and developing local provision.

Employee Directors, as nominated representatives of the staffside area partnership forums, already have a stakeholder seat on NHS Boards. We recommend that a new stakeholder seat is created on all Boards for a nominated public / patient representative from the CHP Public Partnership Forums. This would ensure a much clearer balance between co-owners, with patient/public, staff, clinical and elected local councillor representation among the stakeholder members.

The potential of Public Partnership Forums

PPFs have been set up to engage local communities in the development and delivery of their local health services through CHPs. These groups have had very little time to develop and, like the CHPs with which they are engaged, are at varying stages of evolution. We welcome the commitment in Better Health, Better Care to agree a new participation standard for the future involvement of patients and the public in all NHS Boards and to publish proposals in summer 2008 to strengthen the role of PPFs. We also welcome the integration of the participation standard into NHS Scotland's formal performance management system by 2009.

We have yet to see, across the country, the true potential of public and patient engagement in guiding, developing and commissioning services which facilitate the transfer of the balance of care. If Government health policy is to be successful PPFs must be powerful, representative groups supported to develop the skills and experience necessary to take a strategic role in local healthcare delivery. CHPs and their NHS Boards must also be supported and encouraged to find ways to secure ongoing and meaningful collaboration with PPFs. It is important to note, when debating meaningful participation, that CHPs will not be able to deliver to their full potential until all Boards have successfully re-focused resources on community based healthcare in a manner which matches Government policy drivers. As yet, Audit Scotland has found no evidence of such a shift¹.

¹ *Overview of Scotland's Health and NHS Performance in 2006/07*, Audit Scotland (2007) p20
http://www.audit-scotland.gov.uk/docs/health/2007/nr_071214_nhs_overview.pdf

However, given that this Government has committed to continuing the CHP model and using this as a key method of local engagement, RCN Scotland would like to see available resources for increased participation channelled into a development programme to strengthen the representation, accountability and skills of these existing, but fledgling, arrangements. This should include a focus on how to embed the ethos of mutuality between staff, patients and public in the working of CHPs. Clearly planned and targeted CHP/PPF developments should lead not only to more effective local decision making, but also ensure that a stakeholder member of the NHS Board, nominated from the area's PPF membership, can provide the necessary level of expertise and strategic acumen to play a full and productive role in Board-level decision-making.

Existing democratic representation of local communities

RCN Scotland supports the recent change in NHS Board structure with the addition of a local councillor representative from each council within Board boundaries. Councillors are already democratically elected representatives of the local communities served by the territorial NHS Board. Whilst an important function of their presence on each territorial Board is to ensure efficient and effective strategic integration between NHS and local authority services, we are not convinced that all avenues of ensuring that councillors can discharge a corporate NHS governance role, which facilitates them to gather and speak out the views of local people they democratically represent, have been fully explored. We would like to see the Scottish Government undertake further work with CoSLA to develop new models of working and discuss issues around potential conflicts between a representative and corporate Board role for councillors.

Existing patient / public representation on NHS Boards

The existing open selection and appointments system for non-executive lay members of NHS Boards should already provide opportunities for local people, with appropriate skills to govern a multi-million pound public enterprise, to become Board members. If this is not the case, or is in some way deficient in ensuring local representation, we would ask why that is so and how procedures could be amended to ensure that the significant number of lay people on each NHS Board live locally, use NHS services, and represent a diversity of backgrounds, skills and approaches. The Office of the Commissioner for Public Appointments in Scotland is clear that selection procedures must include "choice of quality candidates for each position, candidates with relevant expertise and experience who reflect the whole of Scottish society"². RCN Scotland supports this stance.

Democracy or scrutiny?

Given the Government's plans to introduce independent scrutiny of major NHS service changes, RCN Scotland is concerned that there is a direct, democratic conflict between promoting a system of elected governance and one of independent panels consulting and deciding on major service change. To whom will elected Board members be accountable for their decision making if judgements can be overturned by appointed panels? Who will hold the mandate for final decision-making? How will an elected Board gain the confidence of their electorate if decisions can be overturned by people appointed through a less-democratic process?

² Message from Karen Calton, Commissioner for Public Appointments in Scotland (Mar 08)
<http://www.publicappointments.org/>

RCN Scotland supports a form of independent scrutiny that will provide an external, critical eye and valuable expertise to evaluate proposed major changes. Panels must also provide an influential forum for those communities affected, including local staff, to express their views within the ethos of a mutual NHS. This should be another important method for ensuring that those members of the public with an interest in health services in their area can engage in decision making processes. However, we are not at all convinced that independent scrutiny panels will have the power to discharge their duties effectively if the decisions they are examining are made by elected Boards with a democratic mandate.

Integrating the Patient Experience Programme in delivery and development

RCN Scotland is supportive of the Government's plans to include patient experience in the development of NHS services and we look forward to further engagement with the Patient Experience Programme. However, as the new Better Together co-ordination centre is less than two months old, none of us can clearly articulate exactly how measures of patient experience will successfully influence patient-centred changes to NHS culture and service delivery over time. We could not reasonably expect anything else at this early stage in the programme's development. But, as with other initiatives aimed at increasing public influence in NHS strategy, this project needs time to test, amend, implement and embed new approaches in ways which are truly integrated into the daily workings of our health service.

We believe that a successful Patient Experience Programme could provide a way for many thousands of Scottish people to influence both local and national improvements to health services. This could build a genuinely broad base of patient opinion to drive positive change.

Conclusion

The NHS in Scotland already has a democratic accountability structure. Individual Boards are responsible for how they spend public money and deliver a national service to the elected Government of the day. We have seen this Government, quite rightly, hold Boards to account publicly through the new annual review structure. This is democracy in action.

Ultimate responsibility for a multi-billion pound, publicly-funded Scottish health service which meets the needs of all our communities is the challenge and responsibility of Government. The electorate has the democratic opportunity to effect change every four years – though we note it may not do this in the numbers any of us would wish for and evidence from England would suggest the potential of even smaller turn-outs for NHS elections³.



The NHS in Scotland does not yet involve the public and patients in decision-making as effectively as it might in the future. We appreciate this Government's motivation to ensure genuine, culturally-rooted participation and power sharing between staff, patients and the public in a mutual NHS. This is the heart of the issue. RCN Scotland agrees that patients should be central to our health service, alongside staff, and that public opinion should be taken account of in service change. We congratulate the Government for the commendable work they have initiated, and continue to implement, to integrate patients and the public in decision making structures.

³ Foundation Trusts in England have a Board of Governors, usually elected by "members" who have opted-in. In the one Trust which removed the opt-in and allowed all patients to vote for Governors, just 18% of the possible electorate turned out to vote. Robson, Kathleen, *Health Board Elections (Scotland) Bill*, SPICe Briefing 06/82 (Oct 2006), p5 <http://www.scottish.parliament.uk/business/research/briefings-06/SB06-82.pdf>

The portfolio of opportunities for engagement that already exist, along with our proposals for an additional nominated stakeholder Board member from the PPF, would together ensure a diversity of opportunity for many local people to take an active and meaningful role in the delivery of their health service in ways which best suit them. It also allows patients and the public to push for NHS changes from many directions. But none of these initiatives has yet been given enough of a chance to effect long-term change and we believe that many members of the public are simply not aware of the opportunities for influence that currently exist.

RCN Scotland calls on the Government to reconsider its current plans for direct elections to health Boards, and instead concentrate its efforts on ensuring that existing opportunities have been thoroughly publicised, tried and tested with all the resources of Government time and money available. We believe that this approach will give the very best opportunity for Scottish patients and communities to make a truly meaningful contribution to the development of Scotland's mutual NHS, in partnership with staff.

Yours sincerely



Theresa Fyffe
Director