



13 March 2014

Dear Minister of State,

You asked us, your Expert Group, to advise on how to strengthen the NHS Constitution in light of the recommendations of the NHS Future Forum in 2012. Here is our report. It is shaped by the earlier work of the NHS Future Forum and by developments since, not least the structural reforms enacted by the Health and Social Care Act 2012, the publication of the final report of the *Mid Staffordshire NHS Foundation Trust Public Inquiry (Francis Inquiry)*, the further consequential reviews and the Government's responses to them.

The members of this group feel strongly about the NHS Constitution. It is a vital statement of the values and commitments that make up the NHS, sitting above politics. It was launched with some energy in 2009 but that energy was unevenly distributed and has been allowed to dissipate. The Constitution is little known and, where known, often dismissed as a set of fine words lacking teeth.

The backdrop to our work has vividly demonstrated the importance of the values of the NHS Constitution, the appalling consequences that can occur when the NHS fails to live up to those values and the seeming ineffectiveness of the Constitution when it has most mattered.

To be of real practical use, the Constitution needs much greater visibility and ownership across the health world. It should be the framework for the values and behaviours expected and against which those delivering NHS-funded services are recruited, trained, managed and held to account. Effort is needed to track whether and to what extent the rights and commitments in the Constitution are delivered in practice. Significant levers of accountability – such as the NHS Outcomes Framework, the Department of Health's mandate to NHS England and the CQC's new fundamental standards – must reinforce and be aligned with the Constitution.

Front-line care staff need to know that the Constitution is a tool for their support, engagement and empowerment. The consistently disappointing results of the NHS staff survey – year on year – demonstrate how much the Constitution is needed for staff.

Patients, carers and members of the public need to know about the Constitution. They must be able to use it to secure the services they need, to understand their own responsibilities in relation to care and to be able to seek redress when things go wrong. We recommend a proper communications campaign, using modern tools, a range of summary versions of the Constitution, and help and support to individuals in applying it. People need to know how the rights and pledges translate into actual behaviours and how to challenge the health system when those behaviours are absent or deficient.

There is a particular problem with complaints. As the *Review of the NHS Hospitals Complaints System* by the Rt. Hon Ann Clwyd MP and Professor Tricia Hart stated, people need to know what to do when they are unhappy with their care and to have the assurance that their complaints and concerns will be properly handled. We call for a new guide to complaints and feedback, as a supplement to the Constitution.

We recognise that in *Hard Truths: The Journey to Putting Patients First* the Government committed to consulting on several additional amendments to the NHS Constitution arising from the *Francis Inquiry*. These and other content changes should be considered, not now, but as part of the next formal review of the NHS Constitution, when a longer-term view needs to be taken about rights and responsibilities and how they should be expressed and applied not just in the NHS but across the health and care world. In the meantime, the priority is for the Constitution to be publicised, embedded and applied.

Finally, we urge you to look again at the question of legal force. While it contains legally enforceable rights, the Constitution itself is not legally enforceable and we question whether it can ever really have teeth if NHS bodies need only “have regard” to it. We call upon the Department to assess the scope for legislative change.

Yours Sincerely,

A handwritten signature in black ink that reads "Jeremy Taylor". The signature is written in a cursive, flowing style.

**Jeremy Taylor, on behalf of the Expert Group  
Chief Executive, National Voices**

*The Expert Advisory Group to the NHS Constitution is a group of clinicians, patient representatives voluntary sector representatives and others from the health field, including frontline staff.*