PsyPraxis - the Changing Context

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Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Conservative) My Lords, with the leave of the House, I shall now repeat a Statement made earlier in another place by my right honourable friend the Secretary of State for Health.

With permission, Mr Speaker, I wish to make a Statement on Mid Staffordshire NHS Foundation Trust. In March last year, the Healthcare Commission's report into Mid Staffordshire and the appalling failures in patient care that were laid bare within it shocked us all. Three reports later and I am announcing today what should have been announced then - a full public inquiry into how these events went undetected and unchallenged for so long. This inquiry will be heard in public, including the evidence, from the oral hearings to the final report. We can only combat a culture of secrecy and restore public confidence by ensuring the fullest openness and transparency in any investigation.

So, why another inquiry? We know only too well what happened at Mid Staffordshire, in all its harrowing detail, and the failings of the trust itself, but we are still little closer to understanding how it was allowed to happen by the wider system. The families of those patients who suffered so dreadfully deserve to know, and so does every NHS patient in this country. This was a failure of the trust first and foremost, but it was also a national failure of the regulatory and supervisory system which should have secured the quality and safety of patient care.

Why was it that it took a determined group of families to expose these failings and campaign tirelessly for answers? I pay tribute, again, to the work of Julie Bailey and Cure the NHS, rightly supported by honourable Members in this House. Why did the primary care trust and strategic health authority not see what was happening and intervene earlier? How was the trust able to gain foundation status while clinical standards were so poor? Why did the regulatory bodies not act sooner to investigate a trust whose mortality rates had been significantly higher than the average since 2003 and whose record in dealing with serious complaints was so poor? The public deserve answers.

The previous reports are clear that a culture of fear existed in which staff did not feel able to report concerns; a culture of secrecy existed in which the trust board shut itself off from what was happening in its hospital and ignored its patients; and a culture of bullying existed which prevented people doing their jobs properly. Yet how these conditions developed has not been satisfactorily addressed. The 800-page report by Robert Francis QC, published in February, gave us a forensic account of the local failures in that hospital and the consequences for patients, but, like its predecessors, his report was limited by its narrow terms of reference.

I am pleased to say that Robert Francis has agreed to chair this new inquiry, and he will have the full statutory force of the Inquiries Act 2005 to compel witnesses to attend and speak under oath.

Clearly these are complex issues and Robert Francis has already said he wants to establish an expert panel that can help support him through this process. However, it is important for everyone that this inquiry is conducted thoroughly and swiftly, with the aim of providing its final report and conclusions by March 2011. I want to assure the House we will not wait to take earlier action where necessary.

So I can announce today that we are going to give teeth to the current safeguards for whistleblowers in the Public Interest Disclosure Act by reinforcing the NHS constitution to make clear the rights and responsibilities of NHS staff and their employers in respect of whistleblowing; seeking through negotiations with NHS trade unions, to amend terms and conditions of service for NHS staff to include a contractual right to raise concerns in the public interest; issuing unequivocal guidance to NHS organisations that all their contracts of employment should cover staff whistleblowing rights; issuing new guidance to the NHS on supporting and taking action on concerns raised by staff in the public interest; and exploring with NHS staff further measures which could provide a safe and independent authority to which they can turn when their own organisation is not listening or acting on concerns.

In the coming weeks we will be introducing further far-reaching reforms of the NHS, which go to the very heart of the failures at Mid Staffs. This is not about changes in processes or structures. It is about a wider shift in culture-putting patients at the heart of the NHS and focusing on the things that matter most to them. That includes putting the focus on safety. At Mid Staffs safety was not the priority; it was undermined by politically motivated process targets. The first Francis inquiry was crystal clear on this point. As the report says:

"This evidence satisfies me that there was an atmosphere in which front line staff and managers were led to believe that if the targets were not met they would be in danger of losing their jobs. There was an atmosphere which led to decisions being made under pressure about patients, decisions that had nothing to do with patient welfare. As will be seen, the pressure to meet the waiting target was sometimes detrimental to good care in A&E".

We will scrap such process targets and replace them with a new focus on patients' outcomes - the only outcomes that matter. We will empower patients with access to information, giving patients the ability to hold their own records, make informed choices and to interact more readily with clinicians. We will put power in patients' hands because ultimately, if patients had been informed and empowered, if people had listened to them rather than obsessing about centrally mandated processes and targets, these scandalous failings could not have gone unchallenged for so long.

In closing, I want to say a word about the trust itself. It is so important that this hospital, which has been under such an intense spotlight, is able to continue to improve services for the patients it serves and continue to rebuild the trust and fractured confidence of that community. Staffing has increased, with more than 140 more nurses recruited since March 2009; processes are more open and transparent, with monthly board meetings now being held in public; results are improving; the hospital standardised mortality ratio is significantly lower; and the rate of healthcare-associated infections has also improved. The Care Quality Commission will, in the coming weeks, provide its considered view on progress when it publishes the findings of its "12 month on" review.

We cannot and should not underestimate the task still ahead and the attention of the trust must not be unduly diverted. That is why I am clear that this further inquiry should not go over ground already covered in the first Francis inquiry and should, as far as is possible, ensure that it

supports all those staff who are working so hard to bring about the changes that are necessary. When this inquiry has completed its work and I return to this House to present its report, I am confident that we will, for the first time in this sorry saga, be able to discuss conclusions rather than questions. We will be able to show that we have finally faced up to the uncomfortable truths of this terrible episode, and we will be able to show that we are taking every step to ensure that it is never allowed to happen again. This is a basic duty of any Government. For the people of Staffordshire, many of whose relatives suffered unbearably in the closing stages of their lives, and for the nation as a whole, this is the very least they are entitled to. I commend this Statement to the House".

My Lords, that concludes the Statement.

Baroness Thornton (Labour) My Lords, I thank the Minister for repeating this important Statement. The Secretary of State promised to establish a public inquiry to examine the Mid Staffordshire Foundation Trust when he was in opposition. Indeed, my right honourable friend Andy Burnham informed us of that intention as late as February when he made a Statement on this matter in another place and announced the findings of the Francis report.

The staff, management and board of the Mid Staffordshire Foundation Trust have worked hard to turn round this foundation hospital and to re-establish good relations with their local community. They now find themselves back on the front page for failures that occurred three or four years ago, which have already been the subject of three inquiries. Therefore, my first question to the Minister is, how do the Government intend to support the staff and management of Mid Staffs during the coming public inquiry? I agree with the noble Earl – it is important to put this on record - that we should acknowledge the work that the current chief executive and chairman have undertaken in the past year or so to turn round this hospital, which has met with a large measure of success. I hope that the Government will support them in the coming months.

There have now been three reports into the terrible events at the Mid Staffordshire hospital. Professor Sir George Alberti published a review of the hospital's progress in emergency care, and Dr David Colin-Thomé published a report on how the commissioning and performance management system failed to expose what was happening in the hospital. The independent inquiry by Robert Francis QC was then established in July 2009. That report is 800 pages long, and I think the noble Earl will agree that it reflects with accuracy the terrible catalogue of failure of care of patients and their families, the comprehensive failure of the management and the failure of the foundation board. As my right honourable friend in another place said, our job in government then was to hold a mirror up to the NHS, which is why we commissioned the Francis report in July and brought forward the further proposals and terms of reference for a further inquiry. Therefore, of course the new inquiry has our full support, as has anything in the Statement that, for example, strengthens and supports whistleblowers in the NHS.

My next question is: how much account will be taken of the previous reports, conducted as they were by very distinguished medical and legal professionals? Can the Minister explain in what way the questions or terms of reference of the new inquiry will differ from the draft terms of reference which my right honourable friend agreed before the election? How long will this inquiry take and how much will it cost? Indeed, what has happened to the many recommendations made in the Francis report in February, which were accepted in full by the then Government? Will they continue to be implemented while this inquiry is ongoing?

Where I think that the Statement is disappointing and perhaps even dangerous is in the reference to targets. It seems to me that the noble Earl is in danger of prejudging the findings of the public inquiry in his undertaking to get rid of targets. The Conservatives have made it clear that they have an ideological opposition to targets, and they have used what happened at the Mid Staffordshire NHS Foundation Trust as their main example of why the four-hour target in accident and emergency is bad. We can have a discussion about that target. We think it is about national standards and that it is a tool for improvement. We also think it is about patient safety-indeed, it has huge support from patients and health staff, including doctors. What we know about Mid Staffordshire is that staffing fell to dangerously low levels. We know that it was not following the national guidance on targets and that it had a stupid staffing policy, which meant that it did not have enough nurses. We also know that the board and management completely failed to address these matters.

What will the Government do if the public inquiry finds that it was these gross failures at every level that were the problem and not the targets? It would be very unfortunate if this inquiry were used by the Government to justify their commitment to that ideology. Does the Minister agree that there needs to be a balance here? Surely the public inquiry needs to address with an open mind these isolated and awful events in this hospital, and then other hospitals and the NHS can learn the lessons from that. If that is the aim, the Government will have our full support.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) My Lords, I am grateful to the noble Baroness for the general welcome that she gave to the Statement and to the decision to announce a public inquiry, which indeed the previous Secretary of State signalled his intention of doing before the general election. I agree with a great deal of what she said-particularly the need to support the staff of the hospital. Indeed, my right honourable friend the Secretary of State is to visit the Mid Staffordshire hospital tomorrow and will make a point of seeing the staff and expressing his support, not just for the work that they are doing but for the progress that they have made since these matters came to light, and will assure them that nothing should distract them from that work as this new inquiry proceeds.

The noble Baroness asked how much account will be taken by Robert Francis of the previous reports. The answer to that is full account. We have made it clear to Mr Francis-and he has not been slow to agree-that there is no point in going over the same ground again. Mr Francis has many fine qualities, but one of the great advantages of his agreeing to do this is that he will, so to speak, hit the ground running. He is on familiar territory. We hope that he will have completed his report by March of next year. We recognise that that is a tight timescale within the context of the Inquiries Act, but he believes that it is eminently possible and we wish him well. The manner in which he will conduct his inquiry is the subject of a separate announcement that he has made this afternoon, and I understand that it is now on the departmental website, so the process will be clear from that.

The noble Baroness asked me about the terms of reference and the difference between this inquiry and the previous one. To encapsulate that difference, the previous inquiry concentrated on what happened at the trust while this one focuses on the lessons for the wider system. The other difference is that the first inquiry was carried out under the NHS Act and this inquiry will be conducted under the Inquiries Act, which is a much more powerful statutory basis on which to proceed. It means that there is a presumption that hearings will be held in public and that records of evidence and information given to the inquiry must be made available to the public. There is a power of compelling witnesses to attend and give evidence, a power to take evidence on oath and

a power to make recommendations if Mr Francis so wishes, not just about the NHS but about bodies other than the NHS. He can make recommendations to the GMC, for example, which the previous inquiry could not do. These are important added factors.

The noble Baroness asked me about targets. I am well aware that she and I do not entirely see eye to eye on this, but I would like to think that we are perhaps closer together than she supposes. It is not that we regard all targets as bad and wrong, but we think that there should be an analysis of the clinical relevance of the targets that are now in place. How much clinical underpinning do they really have? Some of them have considerable underpinning clinically. One thinks, for example of the hospital-acquired infections target, which is clinically very important. But there are others that we will have to look at very carefully. They have less relevance but of course we are taking advice from the medical community. On the four-hour A&E target that the noble Baroness mentioned specifically, of course I recognise that time limits in A&E are very important to patients, but the precise nature of the current target may be wrong - we think that it is distorting priorities within many trusts. We will not take a doctrinaire approach and say that all targets have to go but we want to look at them carefully to make sure that they are useful.

Lord Alderdice (Liberal Democrat) My Lords, the immediate response of my honourable friend Norman Lamb in the other place to the 2009 Healthcare Commission report was to call for a public inquiry. My noble colleague the Minister can be absolutely confident of the warm welcome on these Benches to the decision to have a public inquiry, a request that was refused by the previous Government. One has to suspect that it was refused because of the likelihood of exposing the inadequacies not just of a particular hospital and trust board but of the regulatory system that had been put in place and the culture of target and finance-driven managerialism that the previous Government championed.

I am sure that the noble Earl expects that this will be exposed in the public inquiry, but is it not important that we should not only protect whistleblowers - he has announced important developments in that regard - but address the whole culture that regarded professionals and commissions raising questions and concerns as troublesome and disloyal rather than as wanting to improve the standards and quality of the service? What is needed is a change in the culture, so that the views of clinicians of all professions are valued, welcomed and encouraged. The priority of managers is not to dominate the service and to impose politically driven targets but to provide it with high levels of patient care.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) My Lords, I agree wholeheartedly with my noble friend that in many parts of the NHS we need a culture change-a culture that puts patients first. We need an NHS that listens to patients and responds to their concerns and needs. We must prioritise the people whom the NHS serves and we must listen to the doctors and nurses who work in it. The measures that we are taking today on whistleblowing are important. Last week, we began to publish more transparent data about the NHS so that people can hold their local services to account in a more meaningful way. We are looking also at reducing the number of hospital readmissions, as I am sure my noble friend is aware.

The culture change that is needed will not happen in a hurry and I would not want to give the impression that it is required everywhere in the NHS. Mid Staffordshire was an unusual event, but unless we get to the bottom of why it happened there must be a fear that it may happen again. As we move forward and propose to Parliament changes in the way in which the NHS is

regulated and care is commissioned, we must not lay ourselves open to unintended traps. I therefore concur with all that my noble friend said. I think that he will find, as we bring forward our proposals, that the emphasis on transparency, openness and the patient's voice will do much to address the concerns raised.

Baroness Finlay of Llandaff (Crossbench) My Lords, the Minister has spoken about listening to professionals and to patients. Will he give an undertaking that, long before whistleblowing is necessary, there really will be measures in place to support staff who want to raise concerns that changes proposed by management might adversely affect patient outcomes? That requires an empowering of clinicians at the coal face.

Furthermore, as the Government consider changes in the NHS generally, will they not be fooled into thinking that this was a completely isolated event? I fear that there are a lot of other pockets in the NHS that are not right. What emerged from the inquiry were the voices of the patients' relatives. When they gave evidence, those voices shouted out loud and clear that things were wrong, but they were not adequately heard. I commend - I declare an interest here - the Dying Well Matters programme as part of the Wales 1000 Lives Campaign, which I have been involved in instigating. It routinely seeks stories from relatives and patients before trouble occurs to try to detect those subtle but extremely distressing instances of poor and inadequate care in parts of the service that otherwise might go unnoticed.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Conservative) My Lords, as ever, the House will listen to the noble Baroness with great attention and respect, knowing that she works in the midst of an important and active part of the NHS. I hope that she is wrong and that the seriousness of the malpractice at Mid Staffordshire is rare, but we have to be vigilant. There could be another instance of a failing trust out there. The House may want to know that the Care Quality Commission has announced the registration status of 378 NHS trusts to provide healthcare services from 1 April. Only 22 of those are registered with conditions, but the CQC has said that those trusts are safe to provide services to patients. No trusts were refused registration, which is an important point.

On the question of openness within trusts, the noble Baroness is right: a culture of openness and willingness to learn from mistakes is essential to a health service that wishes to improve. There is a requirement on hospitals to inform regulators about serious errors, but that requirement does not extend to informing patients, so we are looking at how that can be addressed.

Baroness Knight of Collingtree (Conservative) My Lords-

Lord Warner (Labour) My Lords, I think that it is this side's turn-

Noble Lords: Order.

Baroness Knight of Collingtree (Conservative) My Lords, I believe that it is our side's turn.

Lord Astor of Hever (Parliamentary Under Secretary of State, Defence; Conservative) My Lords, there is plenty of time for both sides. I think that it is this side's turn.

Baroness Knight of Collingtree (Conservative) My Lords, I shall be brief. I have never felt so much gratitude towards a Minister as I feel at this moment. He has created a first in my parliamentary life. Never before in 44 years have I had the requests placed so clearly in a speech met six days later: care for patients, an understanding that non-medical people are not always the people to make decisions, and safeguarding what whistleblowers have to say. In fact, there were

other hospitals - Maidstone and several others come to mind - where serious problems had arisen. I have raised such cases many times with dates and all details and had no answers given as to why patients were treated so badly. In the case of Stafford, the chief executive of that hospital, who had been in command for the whole of the time during which that terrible record was amassed, was then given a very senior position with as much responsibility elsewhere. Will the Minister look at that, because we must safeguard patients, wherever they may be?

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) I am grateful to my noble friend for her kind comments. The House will know what a champion she is of patient care and compassion in the health service. On her last point, it is of course for Robert Francis, who is in charge of the inquiry, to decide whom he calls as witnesses, but he has a completely free hand and I am sure that he will take note of my noble friend's suggestion.

Lord Warner (Labour) My Lords, before I ask my question, I suggest that we register that the usual channels might discuss the sequencing of speakers from the government Benches and these Benches, because I am not sure that there is a correct interpretation.

I have no objections whatsoever to this wider inquiry. I hope that it will look carefully at the extent to which doctors, nurses and managers failed in their professional responsibilities. What the regulators and other bodies did might also be usefully looked at. However, does the Minister accept that it is easy in such circumstances to reach for something that cannot answer back, such as a target, to explain away what is essentially appalling clinical and managerial behaviour? That is clear from many other inquiries into what happened in Mid Staffordshire.

If the Minister wants seriously to consider targets, he might read some of the speeches made by previous Ministers, who made it crystal clear to the NHS that its overriding responsibility was to the care and safety of patients, not obsessively to implement targets. I know that there are conventions about looking at papers from previous Administrations, but I would certainly be prepared to waive that consideration. Will he also look at the extent to which John Reid, when he was Health Secretary, amended the way in which the four-hour target was implemented in response to concerns expressed by doctors? He might like to see the minutes of a meeting that I had with the College of Emergency Medicine. Members of the college came to see me as a Health Minister to ask me - beg me, almost - not to amend the four-hour target because of the improvements that it had produced for its members, for patients and for the way in which hospitals were run. Will he also look at the Nuffield Trust's independent inquiry into targets, which also shows the benefits that they have brought to patients in terms of better access and shorter waiting times and which compares the experience in England, where there were targets, very favourably with that in the Celtic fringes, which did not have them?

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) My Lords, we are not targeting the targets with this inquiry. They are not the main point at issue. The noble Lord is right that the main point at issue is the failure of care, but that is also, as we hope this inquiry will show, a systemic failure. That is the point of the inquiry. I do not doubt anything that he said about the commitment of previous Ministers to putting care above any rigid adherence to targets; I fully accept the good faith of Ministers in the previous Administration in that regard. However, the noble Lord will know that what Ministers say is very often not interpreted in the same way on the ground in the NHS. When people in the NHS hear things coming out of Whitehall, they are inclined to adhere rigidly to what they are told to do. That is part of the problem, but it is not the problem that I want to emphasise in this context. We need to understand

how the wider performance management and regulatory system failed to spot the problems earlier and deal with them and why so few professionals felt that they could challenge what they saw. Understanding the lessons from that and the culture in which the events at Mid Staffs were allowed to happen will be key to informing and shaping our plans for the future.

Lord Patel (Crossbench) I declare an interest as chairman of the National Patient Safety Agency. I concur with what the Minister just said: the regulatory authorities that scrutinise the performance of trusts failed Mid Staffordshire. I was criticised for publishing reports of all trusts linked to two parameters of quality of patient safety: trusts' reporting of incidents and mortality ratios. On both those criteria, Mid Staffordshire would have failed, as other trusts fail now. We need an inquiry that identifies parameters of quality and safety that could be embedded across the whole of the NHS so that we can identify failing hospitals early on and remedy them. I support the inquiry.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) I pay tribute to the noble Lord for his work, in particular for his work with the National Patient Safety Agency. As he will know, hospital standardised mortality ratios are something of a vexed topic. Professor Sir Bruce Keogh, the NHS medical director, has established a working group that will review how those ratios are derived and recommend what method should be used consistently for the NHS in future. The aim is to provide simple, practical guidance on how the ratios should be interpreted and used with other sources of information. Once the technical basis for this work has been developed, it is planned that patients and patient groups will be invited to become closely involved.

Lord Low of Dalston (Crossbench) My Lords, the Minister referred to seeing to it that, following the experience of Mid Staffs, more information will be given to patients. He will no doubt recall from debates in this House during the passage of the Equality Bill that research carried out by Dr Foster for RNIB, of which I am a vice-president, showed that as many as 72 per cent of patients were given information by their GP that they could not read. Even higher figures were uncovered in relation to the rest of the NHS. Will the noble Lord give a commitment that the Government will take steps to ensure that information is given in accessible formats to patients who have difficulty in reading information in ordinary print? To assist in doing this, the Government will have at their disposal the strengthened rights of access to information in accessible formats included in the Equality Bill before it passed into law.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) I am grateful to the noble Lord for his question, which is spot on target - if I dare use that word. The need to create more accessible information for patients is central to the Government's agenda for creating choice. Choice is meaningless unless it is informed choice, which means rolling out choice to every patient, including those who are visually disabled. We are determined to make more information about care and safety standards and performance available to the public and staff. That should be published online and in formats accessible to all patients. I assure the noble Lord that we will bear these points closely in mind as we develop our plans.

Lord Burnett (Liberal Democrat) My noble friend is right that a widespread culture of secrecy and fear pervades the NHS. I welcome wholeheartedly the establishment of this inquiry and the proposals to buttress the rights of whistleblowers. Will the Government consider making concerted efforts to recruit managers, especially at senior levels, from outside the NHS? I am

aware that some high-calibre people are non-executive directors, but we need and should recruit high-calibre non-executive directors in the NHS who are independent, intelligent and fearless.

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) I fully agree with my noble friend. We have asked the Appointments Commission to set out proposals for a revised person specification for chairs and non-executive directors to ensure that it is aligned with the current priorities and principles of the NHS. We want to continue to deliver high-calibre non-executives, in particular, who are needed to meet the challenges ahead. The general point raised by my noble friend is well made and we shall certainly take it forward.

Baroness Pitkeathley (Labour) My Lords, I declare an interest as chair of the Council for Healthcare Regulatory Excellence. Will the Minister confirm what I think was the thrust of the Statement, which was that regulation and regulatory activities should always be about patient safety and not about maintenance or promotion of professionals? As the strong and welcome implication of the Statement is about putting patients at the centre, does he expect the inquiry to give any indication as to how patients should be supported in bringing forward their concerns?

Earl Howe (Parliamentary Under Secretary of State (Quality), Health; Con) On the last point, we are doing quite a lot of work in the department to ensure that patients are supported in an appropriate fashion in their dealings with the health service. Our plans for what we hope to call "health watch" will flesh out that point. I agree that safety lies at the heart of the quality agenda, which was commenced in earnest by the noble Lord, Lord Darzi, when he was a Minister. I have the privilege of being responsible for that agenda, which is being continued with urgency. We are committed to developing the role of the Care Quality Commission to make it a more effective regulator of health services in England. We will bring forward proposals that will focus on the outcomes of the care experienced by patients. The Care Quality Commission will be intimately involved in that.