Francis Report: Freedom to Speak Up

4 NHS Staff survey
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6 Francis Freedom to speak up
Pay. The pay dispute for doctors rumbles on. Last month, the Government made a pay offer to staff on Agenda for Change terms and conditions. Interestingly, no offer was made for medical staff. I have written to Jeremy Hunt to ask for talks about this development and hope he will agree to hear what we have to say. See page 5.

Consultant Contact This issue is never far from the agenda these days with the DDRB receiving submissions from many organisations including the HCSA. Full details of our submission can be found on the HCSA website. We have a further opportunity to influence this process as we have been invited to make comments on the evidence submitted by the Department of Health and NHS Employers. More information on page 9.

Whistleblowing The report from Sir Robert Francis on whistleblowing in the NHS should mark the end of the culture of fear that exists in many NHS trusts. The HCSA has been a great champion of speaking up in the workplace. We have pressed home at every opportunity the damaging effects bullying, harassment and victimisation can have on hospital consultants and specialists and, as a TUC-affiliated union have ensured that this issue is highlighted at the annual congress.

We will watch closely as the fruits of Sir Francis’s work trickle down and will continue to support and defend our members in safeguarding their patients without the fear that they could face disciplinary measures, stress, ill-health and ‘burn out’.

NHS reforms The NHS reforms – described as “So big you could see them from outer space” – have come under mounting criticism following a report. The Kings Fund concludes that NHS reforms had had a “distracting and damaging” effect. The HCSA opposed the Health and Social Care Act. King’s Fund chief executive Chris Ham said “People in the NHS focused on rearranging the deckchairs rather than the core business of improving patient care.”

HCSA It is the HCSA AGM on 24 April 2015 at the Sandy Park conference centre in Exeter. This is an opportunity for you the members to meet your Council members and officers, debate important issues and determine the future direction the HCSA takes. I encourage all members to attend.

**Call for contributions**  
If you’d like to submit an article or suggestion for the Newsletter, we’d love to hear from you. Please get in touch via conspec@hcsa.com.
The NHS Equality and Diversity Council has agreed action to ensure employees from black and ethnic minority (BME) backgrounds have equal access to career opportunities and receive fair treatment in the workplace.

HCSA general secretary Eddie Saville said: “The HCSA supports this initiative and as a member of the national social partnership forum will do all it can to promote the implementation of the Workforce Race Equality Standard”.

The move follows recent reports which have highlighted disparities in the number of BME people in senior leadership positions across the NHS, as well as lower levels of wellbeing amongst the BME population.

The Council pledged its commitment, subject to consultation with the NHS, to implement two measures to improve equality across the NHS, which would start in April 2015.

The first is a Workforce Race Equality Standard (WRES) that would, for the first time, require organisations employing almost all of the 1.4 million NHS workforce to demonstrate progress against a number of indicators of workforce equality, including a specific indicator to address the low levels of BME Board representation.

Alongside the standard, the NHS will be consulted on whether the Equality Delivery System (EDS2) should also become mandatory. This is a toolkit, currently voluntarily used across the NHS, which aims to help organisations improve the services they provide for their local communities and provide better working environments for all groups.

To advance these two proposals, NHS England has agreed to consult on incorporating the new standard and EDS2 for the first time in the 2015/16 standard NHS contract. The regulators – the Care Quality Commission, Trust Development Agency and Monitor – will also consider using the standard to help assess whether organisations are ‘well-led’.

The proposal would be applicable to providers, and extended to clinical commissioning groups through the annual CCG assurance process.

One million three hundred thousand people work in the NHS

- 18% staff are from BME backgrounds
- 28% of doctors are from BME backgrounds
- 38% of hospital doctors are from BME backgrounds
- 20% of nurses and midwives are BME – rising to 50% in London
- Two BME CEOs are from BME backgrounds
- Two Executives are from BME backgrounds
- Four directors of nursing are from BME backgrounds
- 3% of medical directors are from BME backgrounds
- 5% senior managers are from BME backgrounds

TUPE transfers

The HCSA has worked in partnership with the British Medical Association to resolve an issue over a TUPE [Transfer of Undertakings (Protection of Employment)] transfer at Maidstone and Tunbridge Wells NHS Trust. The issue arose from the transfer of pathology medical staff to the neighbouring East Kent Hospitals Foundation NHS Trust.

The proposal involved setting up a joint venture with East Kent Hospitals University NHS Foundation Trust though the creation of Kent Pathology Partnership (KPP). As is normal in TUPE transfers the employer proposing to transfer staff entered into a period of consultation.

Members at the Trust called on the HCSA to assist as they had reservations about the transfer. The concern was why there had to be a TUPE transfer. It was acknowledged that consultants will not be moving from their current work base, would be carrying out exactly the same roles and functions, serving the same population and working together as a team based at the same location. So in effect this group of consultants would be working in one Trust yet employed by the neighbouring Trust.

The HCSA officers involved regional officer Emma Champion and general secretary Eddie Saville who supported members in meetings with the employers and in drafting a full response to the Trust consultation document.

Strong arguments were put forward in the response including concerns about a potential lack of career development, day to day governance issues, the effect the transfer could have on training places and many others.

This was the right decision for the Trust to make and shows that calling on the HCSA early on in situations like this enable us to support our members which in turn can contribute to favourable outcomes. At the end of the process, the Trust decided not to proceed with the transfer.

If you have any local TUPE issues, please do contact the HCSA at Headquarters.
Responses were received from 255,000 NHS staff, a response rate of 42% (compared to 49% in 2013).

This reduced response is significant. It has been suggested that this reduction in staff engagement is due to staff being “surveyed out”. The real reason is, of course, that staff see little improvement year on year so have voted with their feet and now do not see the point. The fact is this is not just a tool to take out once a year, read and put on the shelf. It has to be valued and used as the template for improvement on a day to day basis. Anything less is just not good enough.

However some of the responses to questions are extremely telling.

- Only 41% of all staff felt that their trust values their work.
- Just 56% of staff would recommend their organisation as a place to work. Last year the figure was 58%
- Just 37% said that communication between senior managers and staff is effective
- Less than a third of all NHS staff (29%) reported that senior managers act on feedback from staff (this is an increase on the 2013 score of 28%).
- Only 43% said their organisation takes positive action on health and well-being
- A staggering 44% of staff reported bullying, harassment and abuse cases up from last year’s figures.

- 28% of staff report that they experienced bullying, harassment and abuse from patients, their relatives or other members of the public in the previous 12 months. This was down by 1% on last year’s figures.
- Over 71% of staff said they were working extra hours.
- 39% of NHS staff reported that during the last 12 months they have felt unwell as a result of work related stress
- Just over half of staff indicated that they often or always look forward to going to work.
- 33% of staff are satisfied with their level of pay this is a notable drop from 38% in 2013.

Eddie Saville HCSA General Secretary said: “The results of this survey show that Government and Trusts are doing very little if anything to improve the lot of hard working NHS staff, staff feel undervalued, unhappy with their pay and many do not look forward to going to work. Also there are still too many staff experiencing bullying and harassment at work.

“This must surely be a wake up call to all to the Government and Trusts Boards. This decline in staff satisfaction is bound to have an impact on the patient experience, so there is a real need to improve staff engagement, to listen more to staff and act faster to resolve issues.”

Read the full staff survey outcomes at: http://www.nhsstaffsurveys.com/Page/1010/Home/Staff-Survey-2014
HCSA presses Hunt on doctors’ pay

The Government have made a pay offer to all staff on Agenda for Change (AfC) terms and conditions. The offer of a consolidated one per cent from April 2015 to all staff at band 42 and under is welcomed. The unions representing those staff are currently consulting their members on this offer.

In his offer letter to those staff on AfC terms and conditions the health secretary states that the Government reaffirms its commitment to the NHS pay review body and that the NHS pay review body has, "generally served the NHS well".

I have written to Mr. Hunt to set out the HCSA position and asked for talks about doctors’ pay.

HCSA members were in the first wave of trade unions which voted for industrial action and have embarked on four separate sets of action, –the last on the 25 February.

In my letter I wrote:

"Your letter of 27 January 2015 sets out your clear commitment to the NHS pay review body yet fails to offer the same commitment to the DDRB who perform a similar task. We at the HCSA would welcome a statement giving your commitment to the DDRB."

I go on to add:

"the offer of a 1% consolidated pay rise for all AfC staff up to band 42 (£56,504) from April 2015 and of course we welcome this offer. It is the case, as you will be aware, that many of the members we represent such as staff and associate specialist doctors and specialists/specialty trainees do not receive this level of basic pay. These are also hardworking staff committed to provide the best possible care for patients, yet they have not been included in this pay offer."

As HCSA News goes to press we have not received a reply. Members will be informed as soon as the health secretary replies and the association will consult on how we proceed. We still have a live ballot result that enables us to take further action.

Our view is that it is right to press the Government to respect the recommendations of the DDRB which made it clear that medical staff should also be rewarded.

Tell us what you think about this situation just contact Headquarters.

2015 National Clinical Excellence Awards

The ACCEA awards are currently under review. As in previous years HCSA hopes to support nominations for National Bronze, Silver and Gold Excellence awards.

Full details of eligibility can be found on the ACCEA website: http://www.dh.gov.uk/lab/ACCEA/index.htm.

Please read the Guidance to Applicants – available on the ACCEA website – carefully before completing your application. There are useful hints and reminders about how to present your achievements in the best possible way. Ensure that you follow the guidance; use dates wherever possible, avoid acronyms and repetition. The personal statement is not normally scored by assessors so do not include anything in the personal statement which is not also included in the relevant domain.

As the awards are for achievements over and above those expected, this must be the principal focus of your application and work that is already remunerated as part of your normal contractual duties or has been rewarded by previous clinical excellence awards should only be cited when there have been clear developments in this area or further excellence demonstrated.

We intend to run a CEA panel in June/July this year and therefore should you wish to gain HCSA support for your application, I would be grateful if you could email your completed CVQ to conspec@hcsa.com by 5pm on 28 May 2015. Particular consideration will be given to applicants who can demonstrate that they have supported the aims and objectives of the HCSA.

Late applications will not be considered.

Government make pay offer to NHS staff but not for medical staff reports Eddie Saville.

‘We at the HCSA would welcome a statement giving your commitment to the DDRB’
Sir Robert Francis QC has now completed his much awaited review into the extent to which NHS staff are discouraged from raising concerns and the mistreatment of those who do.

The findings and recommendations are important for all NHS staff and are set out in the ‘Freedom to Speak Up’ Report which was presented to the Secretary of State for Health on 11 February 2015. The review follows Sir Robert’s investigation and reports into the dreadful failings in patient care within certain departments in the Mid-Staffordshire Hospital.

There, he found, that the unwillingness of staff to speak out was a significant factor in the continuation of unacceptable standards of care. The discouragement of NHS staff from raising concerns and the unhappy plight of some ‘whistle-blowers’ extends beyond the case of Mid-Staffordshire Hospital. An earlier article in this journal cited the particular cases of a number of prominent whistleblowers from various NHS Trusts, and described something of the repressive dynamics which inhibit genuine whistle blowers from speaking up.

In his report to the Secretary of State, Sir Robert confirms that there is a serious issue within the NHS of discouraging staff from speaking out and in some cases mistreating the genuine whistle-blower. He clearly identifies this to be “not just about whistle blowing, it is fundamentally a patient safety issue”.

The authoritative and influential voice of Sir Robert – in encouraging NHS Staff to raise genuine concerns and to secure support and protection for them thereafter – is a welcome addition to the those of the Joint NHS Employers and Staff Unions contained in the document ‘Speaking Out’.

It echoes the voices of genuine whistle-blowers themselves whose careers and livelihoods have been severely blighted or destroyed because of, what Sir Robert notes to be, their ‘bravery’ in speaking out.

The full report can be accessed on the HCSA website.

In the course of the review Sir Robert and his team interviewed 612 people and took online survey evidence from approximately 20,000 more.

Whistleblowing: what NHS staff say

- 30% of people who had raised concerns said they felt unsafe after they had done so.
- 18% of people said they didn’t trust the ‘system’ and so would not speak out
- 15% of people feared victimisation if they were to speak out.

The Report

The Report identifies twenty important principles for securing an environment of encouragement and support of NHS Staff who raise genuine concerns. Included among these are:

- Promoting a culture in which NHS staff feel safe and encouraged to speak up
- That speaking up and raising concerns should become part of normal working life in the NHS
- Ensuring that all concerns are investigated properly and support is given to the staff raising them
- Protecting vulnerable groups (student nurses and medical trainees) from intimidation should they raise concerns
- Preventing discrimination against those who have been brave enough to speak up and to help them get back into work should they have lost their jobs because of this.

Sir Robert makes a number of specific immediate recommendations:

- A thorough review of all current NHS Policies to ensure they do not inhibit the raising of concerns
- The creation of a Freedom to Speak Up guardian in every NHS Trust to give independent support and advice to staff who wish to speak out.
- A national Officer to oversee and coordinate the work of Freedom to Speak Up Guardians in local NHS Trusts.
- A new system “to help good NHS Staff” who have found themselves out of a job as a result of raising concerns, back to work

Jeremy Hunt, Secretary of State has responded to the Report by accepting its recommendations “in principle” and will now consult on a package of measure to implement them. Specifically he confirmed that the Government will legislate to protect whistle-blowers from discrimination by prospective NHS who apply for NHS jobs.

It is time for a new deal for NHS Whistle-blowers argues Joe Chattin.

Francis Report
Protecting NHS whistleblowers reinstatement and re engagement

Speaking about the review on BBC Radio 4, Sir Robert noted that there was a ‘climate of fear’ brought about by the experience of those who have spoken out. He said that he had “spoken to people who have lost their jobs, their livelihood, they have not been able to find other jobs and, I am afraid, in some cases have felt suicidal and became ill as a result”.

In proposing support for whistle blowers who may have lost their jobs as a consequence of their courage in speaking out, Sir Robert does not envisage reinstatement or re-engagement by way of Employment Tribunal awards as a workable option. In Section 9 of his report Sir Robert assesses the present general provisions of employment law and the Employment Tribunal system. This he describes as being ‘weak’ in the protection it gives to whistle blowers. He believes that additional legislation could not be passed speedily enough to make a difference for those working in the NHS today.

Sir Robert believes that an immediate effort to transform the culture of the NHS in encouraging and supporting the raising of concerns is a better approach and that recourse to law by those mistreated for speaking out should not be the main remedy. The Report makes a vital point that there is no evidence that employers are deterred from victimising Whistle-blowers by the prospect of Employment Tribunals.

The concepts of whistleblowing and establishing matter of patient safety are deemed by the Report to be too complex for, and alien to, Employment Tribunals and to have them wrestle with these would not guarantee effective protection. The point is made that the current legislation and employment tribunal processes only provide a remedy for ‘past’ detrimental action rather than stop future acts of victimisation. The report notes that the current doctrines of the employment tribunals hold that an employer cannot be forced to comply with an order for reinstatement or reengagement.

Sir Robert Francis opts for supporting the whistle blowers who may have lost his/her job primarily by means of preventing discrimination by prospective employers. The report refers to recently enacted provisions which prevent blacklisting of Trade Union members, a model.

Sir Robert is clearly correct about the limitations of the Employment Tribunal system and current general employment law in protecting NHS whistle blowers. But in contrast to Sir Robert it might be held that the best support to NHS whistle blowers who have lost (or may lose) their jobs because of raising genuine concerns, is not that they are protected from discrimination by prospective employer on grounds of having raised concerns, but that they are reinstated by having their dismissal overturned.

Whilst the current doctrines of the employment tribunal system eschew reinstatement, this could be a vital protection created within the NHS procedural arrangements. This is not new and was once available in the functions of the Secretary of State Appeal Panel which previously adjudicated on the dismissals of senior medical staff.

A similar mechanism could quite properly be introduced but tuned to the protection of whistle blowers from whatever occupation they hold within the NHS. The stronger the protection that comes from within the NHS for genuine whistle blowers so much the better for the overall system of support for them. Stopping a genuine whistle blower from losing his/her job and career in the first place is a much stronger option and is an essential part of ensuring that the ‘bravery’ which Sir Robert recognised in genuine NHS whistle-blowers is properly recognised and protected.

Joe Chattin is the HCSA Regional Manager North
HCSA Annual General Meeting 2015

The 2015 HCSA AGM is at Sandy Park conference centre in Exeter on 24 April.

The full address is
Sandy Park Way
Exeter, Devon, EX2 7NN

The Agenda will include:
- Apologies for absence
- To receive the report from the HCSA President Professor John Schofield
- Minutes of the AGM held on the 25th April 2014
- Matters arising
- To receive a report from the Honorary Treasurer Dr Bernhard Hiedemann
- To consider any rule changes*
- To appoint Auditors for 2015/16
- Election of National Officers
- Any Other Business

* proposed rule changes will appear on the HCSA website 28 days prior to the AGM

The AGM is your chance to hear what the HCSA has been doing on your behalf over the past year and give your views on what we do in the coming 12 months. If you are free and can attend you will receive a warm welcome.

Recruit a colleague today

The HCSA continues to recruit new members across the UK. However we can never have too many. New members are the lifeblood of our union.

They enable us to gain influence, increase our presence and ultimately mean we can better represent and protect ourselves at the workplace. We know that there are thousands of consultants, specialists and trainees who are not members of any trade union. We also know that most people join after talking to a colleague.

Is there a colleague in your workplace – perhaps working alongside you – who has yet to join the HCSA? Why not tell them about why you joined the HCSA, and the benefits of membership?

Tell them about the services we provide, the local representation that is invaluable when issues crop up at work, and the fact that our sole focus is on consultants, specialists and trainees.

We are continuing to build organisational activity locally to create a solid base from which we will meet the challenges that lay ahead. More members give us a stronger sense of confidence and ability to change things, now is a great time to be recruiting new members.

We know that the single biggest reason people give for not having joined a union is that nobody has ever asked them. Our recruitment leaflets are available and copies can be obtained from head office, call headquarters to get copies.

Increasing our membership provides the resources to raise important issues and represent members and enables us to maintain and expand a wide range of services. And it gives stability to the union.

New members do not just happen. They have to be recruited. Your help and assistance is invaluable.
Become an HCSA hospital representative

The local hospital representative is the most important link between the HCSA and its members. Hospital reps are the local HCSA leaders who talk to, recruit and organise members around workplace issues.

They provide information to the HCSA about the issues that are topical at local Trust level, notify HCSA members about campaigns, distribute leaflets and keep members informed about local and national issues.

Hospital Reps are advisers and sounding boards, talking to members about workplace issues and directing members to the regional officers and Headquarters for advice. They are the spokespersons for the collective views of members in their workplace. They also have an important role in ensuring that the views within the workplace are fed back to the HCSA at national level. Having a hospital rep in every hospital provides the HCSA with strong and effective organisation.

The role can be flexible – you decide how much time you can put in. Any contribution towards building the HCSA is greatly appreciated. The strength of the HCSA comes from members participating and making their voices heard. By acting together at work we can make a difference to the issues that are of importance to all members.

Encourage new colleague to join the HCSA.
Direct members to the Regional Officers for advice and guidance.
Distribute and publicise HCSA literature.
Give you and your colleagues a voice in the HCSA.
Take soundings and feed views back to both Council members and HCSA head office.
Become the focal point for the HCSA in the Trust/Health Board.
Seek participation in the local LNC.
Get to know other HCSA members in the workplace.

No contribution is too small, and the HCSA will provide the support you will need.

If you want to know more about becoming an HCSA rep contact HQ.

Hospital representative check list.

A consultation has recently been launched, to inform and update the NHS Constitution. Creating a culture of transparency and accountability in the NHS is a key focus of Government policy, and as such, Secretary of State is keen to represent this within the NHS Constitution.

The Department of Health has therefore decided to consult on this, along with a limited number of other changes to the NHS Constitution, including:

- the changes recommended by Sir Robert Francis QC;
- Giving greater prominence to mental health;
- Weaving in some of the new Fundamental Standards; and
- Making reference to the Armed Forces Covenant.

Submissions to this consultation will be reviewed and re issued around summer this year. The NHS Constitution contains important pledges and commitments and is a document that is insufficiently used to hold Trusts to account for their actions towards staff.

HCSA News will report the outcome of the consultation in due course.
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Immediate Past President Dr. Umesh Udeshi
Honorary Treasurer Dr. Bernhard Heidemann
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HCSA Hospital Representatives
You can find the contact details of your local HCSA Hospital Representative on
the website at: hcsa.com/contact-us - just click on national/hospital contacts
and select your area from the drop down options.

Prefer to receive this newsletter and other communication from
HCSA electronically?

Just drop us an email – conspec@hcsa.com –
and we’ll update your preferences. Thank you.
Membership Application 2014/2015

Title
Forenames
Qualifications
GMC No
Speciality
Year Qualified
Main Hospital
Preferred Mailing Address
Post Code
E-Mail
Contact Telephone Number
Grade:
Consultant
Associate Specialist
Speciality Trainee
SAS doctor
Staff Grade/Trust Speciality Doctor

Signature
Date

Current Subscription Rates:
○ Full Annual - £240 per annum commencing October 1st 2014 (pro rata for first year of membership)
○ Full Monthly - £20.75 per month
○ Specialist Trainee Annual - £192 per annum commencing October 1st 2014 (pro rata for first year of membership)
○ Specialist Trainee Monthly - £16.75 per month
Please complete the Direct Debit Mandate overleaf and send it to the Overton Office address on reverse. Introduced by (if applicable)

Important - Please Note:
We are not normally in a position to provide personal representation over issues that have arisen prior to joining the HCSA. Please DO NOT fax or e-mail this application form - we need an original signature on the Direct Debit. Mandate for your bank to authorise payments.
Instruction to your bank or building society to pay by Direct Debit

HCSA
1 Kindsclere Road
Overton
BASINGSTOKE
Hampshire
RG25 3JA

Service user number:

9 9 7 5 7 2

Instruction to your bank or building society

Please pay The Hospital Consultants and Specialists Association direct debits from the account detailed in this instruction subject to the safeguards assured by the direct debit guarantee. I understand that this instruction may remain with The Hospital Consultants and Specialists Association and, if so, details will be passed electronically to my bank or building society.

Bank or building society account number:

Name(s) of account holders

Please fill in the whole form using a ball point pen

Payment reference (To be completed by HCSA):

HCSA
1 Kindsclere Road
Overton
BASINGSTOKE
Hampshire
RG25 3JA

The Direct Debit Guarantee

- This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits
- If there are any changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of your account being debited or as otherwise agreed. If you request the organisation to collect a payment, confirmation of the amount and date will be given to you at the time of the request
- If an error is made in the payment of your Direct Debit, by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society
- If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify the organisation.

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