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Our Ref: JMcK/PMcD/CH/M8/261

12 November 2013

The Chairman
The Inquiry into Hyponatraemia Related Deaths

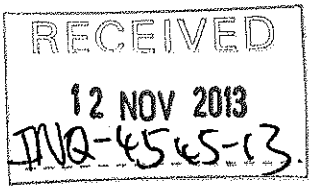
By email: inquiry@ihrdni.org

Dear Sir

Re: Departmental and General Governance

With reference to the issues under consideration by the Inquiry this week, Dr Carson has asked us to forward to you the enclosed RQIA report "An initial response to the mid Staffordshire NHS Trust Public Inquiry", which was submitted by RQIA to the DHSSPS.

Yours faithfully



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Regulation and Quality Improvement Authority (RQIA)

An Initial Response to -

The Mid Staffordshire NHS Trust Public Inquiry

(The Francis Report; February 2013).

Introduction.

In the covering letter to the Secretary of State for Health, dated 5 February 2013, Robert Francis referred to an 'insidious negative culture' and 'serious systemic failure' at Mid-Staffordshire NHS Trust which had resulted in unnecessary suffering and which may have contributed to the premature deaths of up to 1,400 patients between 2005 and 2009.

Robert Francis made 290 recommendations in the report of the Public Inquiry. Many of these recommendations refer directly to the system of regulation and to the role and responsibilities of the NHS regulator, the Care Quality Commission (CQC).

The Regulation and Quality Improvement Authority (RQIA) has looked at the 290 recommendations from the Inquiry and identified 100 which speak directly to the process of regulation.

Whilst the roles and responsibilities of CQC and RQIA are similar, RQIA operates under a different legislative framework. In England, NHS hospital trusts are subject to registration by CQC whereas this is not the case for HSC trusts in Northern Ireland. There are some differences in the approach to regulation of hospitals. CQC has previously regulated on the basis of ensuring compliance with minimum standards whereas RQIA has carried out thematic reviews, based on a drive for service improvement.

In Northern Ireland RQIA's footfall into acute hospitals is through both thematic reviews such as for theatres, or hospitals at night and weekends, and a programme of hygiene and infection prevention inspections, which in 2013 has been extended to include augmented care. RQIA also conducts a programme of inspections and

patient experience reviews in mental health and learning disability hospitals in relation to its functions under The Mental Health (Northern Ireland) Order 1986.

Patients First and Foremost

In May 2013 the Department of Health (England) published 'Patients First and Foremost' an initial response to the Francis Inquiry. This report sets out a five point plan to 'revolutionise' the care that people receive.

The proposed approach centres on the following five principles –

- preventing problems
- detecting problems quickly
- taking action promptly
- ensuring robust accountability
- ensuring staff are trained and motivated.

The Department of Health's response indicates that whilst the case at Mid Staffordshire NHS Foundation Trust was unique in its severity and duration, pockets of poor care exist elsewhere. Furthermore, some of the features that contributed to the tragedy – patients and families ignored, staff disengaged or unable to speak up – point to wider problems.

There are many lessons from the Francis Report but perhaps the single most important message has been summed up by Robert Francis. He stated that if the patients and their carers had been listened to then the scandal that was Mid-Staffordshire would not have occurred.

Care and Support Bill (England).

The first part of the Care Bill (England) is a critical step in reforming care and support and in achieving the aspirations of the white paper 'Caring for Our Future'. The second part of the Bill takes forward elements of the Francis Report. It will allow for Ofsted-style ratings for hospitals and care homes that will allow patients and the public to compare organisations or services in a fair and balanced way. The Bill will give the new Chief Inspector of Hospitals the power to instigate a process to tackle unresolved problems with the quality of care more effectively than before. The Bill will make it a criminal offence for providers to supply or publish false or misleading information.

RQIA's Initial Response to Francis.

RQIA is in the process of considering each of the 290 recommendations from the Francis Inquiry, in particular those that refer directly to regulation.

RQIA is of the view that any decisions about the way in which health and social care is regulated in Northern Ireland must take account of the Francis Report. In addition, they must be tailored to meeting the specific challenges of our integrated health and social care system. These include the changes associated with Transforming Your Care (TYC) and the implications of Quality 2020, particularly the twin tasks of raising standards and measuring improvements.

RQIA believes that in the short to medium term action is needed across three core dimensions of RQIA activity, as follows –

1.0 Extend the inspection footfall in acute hospitals beyond current thematic reviews and hygiene and infection prevention inspections to incorporate specific inspections focusing on the patient experience.

2.0 Consider the merits of implementing a rating system of hospital wards and clinical areas based on the recommendations set out in the Nuffield Report ' Rating Providers for Quality: A Policy Worth Pursuing'.

3.0 Working with DHSSPS, HSC arms-length bodies and other regulators to ensure a comprehensive system of intelligence gathering and sharing, identifying and utilising reliable data sources both from within and external to the system. This would include, for example, information from complaints, whistle-blowing, incident reporting, media sources and concerns raised by both the public and by elected representatives.

This paper sets out how RQIA will take this work forward in the period from August 2013.

1. The Patient Experience

RQIA recognises and accepts that the patient experience is a core dimension of measuring performance and driving up quality. The patient experience has been defined in terms of clinical outcomes and waiting times. These are reliable and legitimate indicators of performance and should continue to be used to inform best practice.

> ‘People must always come before numbers. Individual patients and their treatment are what really matters. Statistics, benchmarks and action plans are tools not ends in themselves. They should not come before patients and their experiences. This is what must be remembered by all those who design and implement policy for the NHS.’
>
> **Robert Francis QC**

Since 2008 RQIA has delivered a programme of infection prevention / hygiene inspections across all hospitals in Northern Ireland. This programme of inspections is largely unannounced, although since 2012 RQIA has introduced an announced component to the inspection programme which allows representatives of senior management and Trust Boards to engage directly in the process.

RQIA in conjunction with DHSSPS and the Public Health Agency has designed a regional audit tool to facilitate the inspection programme. RQIA uses a rating system based on performance scores to rate the performance of providers at ward level across an eight point scale. This system is now fully embedded and reports of inspections are published on the RQIA website.

In 2012 following the outbreaks of pseudomonas RQIA worked with DHSSPS and other HSC bodies to design an audit tool that could be applied to augmented care including neonatal units, neurological and intensive care wards.

RQIA has scheduled a planned review of the care of older people in hospital wards. This review, which will concentrate on the patient experience, is currently at the planning stage and the intention is to take this forward as a series of inspections of hospital wards and clinical areas.

RQIA will take account of the DHSPS Quality Standards in the design stage of this review, which will look at aspects of patient care including privacy, dignity and respect. The review will also encompass themes such as nutrition and patient safety. It is anticipated that the fieldwork for this review will be conducted in the period from September to December 2013.

Following the publication of the findings of this review, RQIA will engage in a process of consultation with DHSSPS regarding the potential to introduce a rolling programme of inspections on the theme of patient experience, using the already published quality standards.

2. Formal Rating Systems

The Nuffield Trust (March 2013) published a report commissioned by the Secretary of State for Health (England) entitled Rating Providers for Quality: A Policy worth Pursuing?'

The title suggests that rating systems have had a chequered history. Section 2 of the Nuffield report describes how rating systems have been applied, with varying degrees of success, across health and social care. The debate about the relative merits of rating systems extends across jurisdictions and between public services. For example, much attention has been focused recently on the use of rating systems by Ofsted in inspections of schools, and whether a similar approach could be adopted in healthcare.

In the report of the consultation and pre-legislative scrutiny on the Draft Care and Support Bill (May 2013) paragraphs 138 and 139 set out the case for the introduction of a rating system to include measures on safety, effectiveness and user experience. The report indicates that alongside these, particularly for larger health organisations, ratings for quality should be based on routinely collected data and data from inspections, be transparent and updated and made available to the public, for example in the form of an annual judgement.

The purpose of having a rating system is to provide the public with an indicator that is easy to understand. Those who oppose the use of rating systems argue that they are too simplistic, and only provide an indication of the performance of a facility or services at a particular point in time.

The Nuffield Report sets out five distinct purposes of rating systems –

- increasing accountability
- aiding choice
- improving performance
- spotting failure
- reassuring the public

Since RQIA began publishing inspection reports on its website in 2010 the number of hits to the website has increased significantly. When RQIA decided, in the public interest, to publish details of enforcement activity, the number of hits to this page on the website also increased significantly. Whilst we cannot disaggregate hits from the public from others, indications would suggest that the public make use of the website

in the search for information about registered services and the quality of care provided.

RQIA does not use a formal rating system in its inspection reports but does use descriptors of performance on a progressive scale of compliance with the minimum standards. Other health and social care regulators do make use of rating systems, most notably the Care Inspectorate Scotland which uses a scale of six points to rate providers across a number of dimensions. Their descriptors of 'adequate', 'good', 'very good' and 'excellent' are progressive grades of acceptable performance, whilst designations including 'weak' and 'unsatisfactory' represent poor performance. The level of 'unsatisfactory' performance is likely to carry with it formal sanction or intervention.

RQIA uses a range of indicators in its inspection reports of registered agencies and establishments (which currently excludes HSC hospitals) to describe the assessed level of performance against the minimum standards, forming the focus of each inspection. These range from 'compliant' through 'substantially compliant', 'moving towards compliance' and 'not compliant'. Where services are not fully compliant with the standards, requirements or recommendations for improvement are made. In services where compliance is poor, and where necessary improvements are not made, an escalated regulatory regime is likely.

In the Scottish system ratings are summarised at the front of each inspection report, making it relatively easy for the reader to see at a glance how a registered service has performed in the course of a particular inspection.

A caution in the Nuffield Report is that the use of ratings per se is unlikely to be useful in spotting lapses in the quality of care, particularly for complex providers such as hospitals. Hospitals are large, with many departments and different activities, carrying out complex procedures, seeing large numbers of patients every day.

RQIA believes that an equitable approach should be used in the assessment of providers, whether owned and operated by HSC Trusts or owned and operated by independent providers. Another important principle is that if a rating system is to be applied across hospitals, as well as non-hospital environments, it should be tailored to the particular circumstance and be fit for purpose.

3. Utilising Intelligence from service users and the public to inform risk assessments and decisions regarding inspections.

RQIA receives information from a range of sources that enables the regulator to inform an opinion of a particular service, and to determine a risk rating which helps to

focus our inspection activities. All registered services receive a minimum of one or two inspections per annum, depending on the statutory minimum requirement set out in service specific regulations.

Some registered agencies and establishments are subject of an increased number of inspections, generally as a result of elevated concern about the service. This may stem from quality or safety issues raised by service users, staff members, visiting professionals or family members. Increased inspection activity may also occur when adult protection concerns emerge, or as a result of stated requirements and / or enforcement activity. This discipline, which impacts directly on all registered agencies and establishments, does not include hospital wards. However, in any circumstance where RQIA becomes aware of a concern about a particular hospital ward or clinical area we may, at short notice, undertake an unannounced infection prevention / hygiene inspection.

Planed thematic reviews and the programme of infection prevention / hygiene inspections are designed to give the public assurance about services and to identify and share areas for improvement. RQIA can also respond to a range of immediate issues in response to requests from the Minister. Examples of previous reviews examined: the death of Janine Murtagh; the outbreak of Clostridium difficile; the reporting of plain x-rays, and the pseudomonas outbreaks.

Information sources vary widely and include for example, complaints, adverse incidents, whistleblowing, performance monitoring and media reporting. The real challenge is in making sure that information held by one organisation that could be useful to another is shared appropriately and in the public interest.

The Northern Ireland Audit Office Report: ‘The Quality of Care In Homes for Older People’ pointed to the availability of information on complaints as an important source of intelligence about the performance of registered establishments, and the need to make sure this information is used to best effect in reducing poor care and driving up performance.

The Francis Report signposts a range of important issues relating to the performance of acute hospitals, however, the learning from the Public Inquiry can be applied more widely. In the context of the integrated health and social care structure in Northern Ireland we need to ensure that the learning from Francis is applied across the sector. To limit our focus to acute hospitals runs the risk of missing important lessons for the regulation of all health and social care establishments.

Conclusion.

Many of the 290 recommendations of the Francis report have relevance in Northern Ireland. This short paper attempts to set out an initial response to significant and complex issues about the future of regulation of health and social care. It is appropriate that HSC bodies should engage in a process of determining the learning from the Public Inquiry and what actions are required to satisfy ourselves, as best we can, that the risk / likelihood of a similar occurrence in Northern Ireland is mitigated.

While RQIA has a brief, similar in certain respects to that of CQC, RQIA is not required to register HSC trusts as single entities. RQIA cannot take direct action to close a hospital ward, but does have wide ranging powers under The Health and Personal Social Services (Quality Improvement and Regulation) (NI) Order 2003. These include the power to issue Improvement Notices and, in certain circumstances, to recommend to DHSSPS that a HSC trust be placed on special measures.

We need to be confident that the system of regulation and inspection is robust, transparent and accountable. It is important, in light of the findings of the Francis Report, for RQIA to complete the audit of some 100 recommendations that refer specifically to regulation, and to share our findings with DHSSPS.

RQIA is concerned to ensure that burden of regulation is proportionate and realistic. The fundamental question for all parties is to determine whether the present system of regulation of HSC hospitals in Northern Ireland is robust and fit for purpose.

The measures proposed above are what RQIA believe should be an initial response to the Francis Report. Once we have concluded the analysis of its findings and recommendations, we may make further proposals for consideration by DHSSPS.

2 July 2013.