

Research that makes a real difference

‘It ain’t what you do it’s the way
that you do it’: embedding the
NHS Constitution in front-line
practice

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Acknowledgements

This policy paper was produced following a private workshop held on behalf of the NHS Future Forum in support of its review of the NHS Constitution. We are grateful to Steve Field and to participants in the workshop, who were a mix of contributors from policy, practice and research, and from different parts of the health care system. To ensure full and frank discussion, the workshop was held in private; however participants were happy for a broader policy paper to be produced and have commented on drafts. Despite this, the final paper and the views expressed remain those of the authors.

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About HSMC

HSMC has been one of the leading UK centres for research, personal and organisational development in health care for 40 years. Commissioning of healthcare and provision of healthcare outside hospitals have become specific areas of expertise in recent years, underpinned by a continuing commitment to issues of quality improvement and public and patient engagement. This reputation has also extended to adult social care, with a growing track record in inter-agency commissioning and provision of health and social care services. HSMC has also developed a national reputation for both organisational and leadership development across all health settings. For further information visit:

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Published in January 2009, the NHS Constitution:

*“... establishes the **principles** and **values** of the NHS in England. It sets out **rights** to which patients, public and staff are entitled, and **pledges** which the NHS is committed to achieve, together with **responsibilities** which the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively. All NHS bodies and private and third sector providers supplying NHS services are required by law to take account of this Constitution in their decisions and actions” (Department of Health, 2009).*

At the time, opinion was divided about the potential implications of such an approach. On the one hand, some felt that a clear statement of rights and responsibilities was an important step forward – particularly if the NHS was to create a more independent national Board that would operate at greater arms-length from Ministers and the Department of Health. Such an approach also felt consistent with the current emphasis on involving and engaging patients and the public in decisions about their care and about services more generally, and with greater recognition of the need to care for staff in order to support them to care more effectively for patients. At the same time, others were worried about two polarized issues – whether the Constitution would be too broad and abstract to make a practical difference at ground-level or, in contrast, whether it would be used in an overly-legalistic manner by patients queuing up with local solicitors to demand their legal rights (a “lawyer’s charter” - NHS Future Forum, 2012, p.1).

In practice, experience so far has been mixed. In 2012, the Secretary of State’s report on the effect of the Constitution found that staff are supportive of the idea of a Constitution, but that (Department of Health, 2012):

- Public awareness is low (with relatively few people knowing about the Constitution and very few people using it to find out information about what they can expect from services). Many more people are likely to use Google as a source for information than the Constitution.
- Only 1% of staff report that a patient had asked them about the Constitution.
- Around 45% of NHS staff are aware of the Constitution when prompted with its name, but only one in ten feel very or fairly well informed about it (and these people are more likely to be managers than doctors or nurses).

The review concluded:

“Whilst it is encouraging that certain staff groups such as managers are very aware of the NHS Constitution, it is unsatisfactory that there are large variations between different occupations with lower awareness in some groups that have the greatest patient contact... Awareness among NHS staff and the public is important but this is only one factor – patients and staff also need to be able to use the Constitution as a

means of upholding their rights and the pledges made to them. What comes through from this research is that although awareness levels are rising amongst NHS staff and the public, there is little evidence that patients and staff are using the NHS Constitution in discussions about the patient's care or the staff member's employment"
(Department of Health, 2012, p.18).

In response, a covering letter from the NHS Future Forum (2012) stresses the importance of the Constitution, particularly in a time of organisational change and financial pressure. However, it acknowledges a common view that the Constitution may amount to "fine words but no teeth" and emphasises the need in future for it to be "a living document, a guiding light for staff in the NHS and point of reference and reassurance for patients and citizens" (p.3).

As the NHS Future Forum started to consider its recommendations on the impact and future development of the Constitution, HSMC held a private workshop for a series of key stakeholders across the system to debate these issues and to help inform the thinking of the Future Forum. Participants included a series of experts around public and patient engagement and/or around staff engagement and workforce development, with representation from PCT commissioning, from providers, from newly emerging clinical commissioning groups (CCGs) and from research.

A good idea in principle?

Interestingly, the majority of our participants felt that the rights, pledges and principles in the Constitution were common sense and difficult to argue with. For many, the Constitution was generally perceived as a 'good thing', while for others it felt essentially harmless (a good idea in theory, albeit largely ineffective in practice). No one was hostile to the idea of a Constitution or to its basic substance.

During subsequent discussion, three main caveats emerged:

1. Participants felt that the main benefit of a Constitution was in setting out a small number of high level rights and principles, and that these should be enduring. If too many extra things are added in response to short-term political priorities, it would lose credibility with staff and with patients.
2. Given the widespread changes taking place in commissioning, there may be a risk that attempts to embed the Constitution focus more on health care providers and their staff, rather than on commissioning organisations. Elsewhere, health care commissioners have been described as having a key role as the overall "conscience" of the system in an era when services might be delivered by a much more mixed economy of care (see, for example, Glasby, 2012). The advent of clinical commissioning is thus an opportunity to explore the implications of the Constitution for commissioners as well as providers.
3. If this is to happen in a meaningful way, then the focus needs to be on making the Constitution real in practice and living its values. The danger with any process such as CCG authorisation is that it could become 'an exam to be passed', with a slick answer produced as to how the CCG embodies the Constitution (irrespective of what actually happens in everyday practice).

Making it real

Much more important than the actual content of the Constitution (which was felt to be fine in principle) was the way in which local organisations and leaders are enabled to make the Constitution real. Initially, the workshop explored how **patients and the public** could use the Constitution and what improvements the Future Forum could recommend. Although raising general awareness would be positive, there was a general sense that a Constitution could only ever have limited impact and relevance for patients. In some circumstances, it might be a helpful way of trying to understand what good care looks like and to prepare for planned care. However, it was not felt to be realistic for patients to consult a Constitution in an emergency or to engage with the detail of the various rights and pledges when unwell and distressed. While having a broader awareness of and profile for the Constitution was felt to be helpful, the key concern for patients and the public was perceived to be whether or not the various rights and principles are actually embedded in front-line services.

To do this, participants felt that the main focus should be on **staff**. Whereas previous initiatives such as the Patient's Charter adopted a broadly consumerist approach and were aimed primarily at patients, the main value of the Constitution was felt to be the principles it contains and the responsibility that staff and local organisations have to make these principles real. Taking this a step further, participants felt that there was a key role for local organisations, leaders and clinicians in translating the contents of the Constitution for their specific context, service area or client group (so that any subsequent actions or changes are locally appropriate and locally owned). This might require a national steer about the overall importance of the Constitution's rights, pledges and principles, but significant local flexibility in terms of how to deliver the spirit (and not just the letter) of the Constitution. This was expressed in terms of a desire to do at national level what can only be done at national level – but to enable local organisations to embed key values in a locally appropriate way.

Above all, participants focused on the central importance of **values** in making the Constitution a reality. They felt that this began when participants were selected onto professional/managerial training courses and when people were first appointed to NHS roles. It was then crucial that a values-based approach is adopted in subsequent training and development, appraisal and outcome measures. As one participant suggested:

“We can recruit according to knowledge, skills and attitudes – but attitudes are key. Anything else is just about training.”

Of course, in practice, many of the complex roles required in different parts of the system need significant skill. However, some participants felt that the NHS has previously been primarily concerned with technical ability, whereas now we need to move to a situation where we have the right level of skill together with the right attitude.

As an example of what a more values-based approach might look like in practice, participants discussed the approach adopted by Birmingham Children's Hospital (see Box 1). Key factors in this example include:

- The importance of staff engagement in tailoring core NHS values for their specific context.
- The need for senior leaders to support a values-based approach and for staff to believe that they really mean it when they say it.
- Embedding core values in everyday processes so it becomes part of 'how we do things round here'.
- Practising what we preach so that values feel real rather than something we commit to in a mission statement but do not really live out on a daily basis.
- In making this real we need also to think about sanctions or consequences when values are not adhered to - something we know is lacking across the NHS.

Possible barriers and solutions

At present, participants felt there were a number of practical barriers that might prevent local organisations embedding the principles of the Constitution in everyday practice. These included:

- A perceived lack of emphasis on core values and attitudes in initial professional training and subsequent recruitment (with clinical skills and academic qualifications often prioritised over values). Going forward there may be a key role for NHS Jobs and the various professional bodies to ensure that the spirit of the Constitution is fully embedded.
- The very slow and 'clunky' nature of the NHS staff survey, with scope for this to be much more fully aligned with the Constitution and for data to be analysed/presented to staff and the public accordingly.
- A lack of focus on the Constitution in many job descriptions and staff appraisals.
- A perceived tendency for current regulatory and authorisation processes to ask about the Constitution in a mechanistic way, rather than exploring the extent to which its key principles are really understood, owned and lived out in practice.
- A belief amongst many staff that the NHS has historically valued very top-down and direct performance management/delivery, and that more values-based approaches have not always been seen as a priority for some senior leaders. If we could reverse this tendency, the principles and rights embodied in the Constitution could be a key way in which local organisations try to demonstrate how they work and how/for what they are accountable to local people.
- A failure to include a clear statement of NHS values in some external contracts, missing an opportunity to build the Constitution in to the work of all providers (whether from the public, private or voluntary sector).
- A risk that financial pressures lead to a reduction in the services available – and that this sits uncomfortably with the idea of 'rights'.
- A tendency to neglect middle managers when planning leadership development and organisational development interventions, thus failing to support them to develop a more values-based approach (and failing to recognise the key role they play in helping to create the culture locally).

Box 1: Developing a values-based approach at Birmingham Children's Hospital

We knew here at Birmingham Children's Hospital (BCH) we wanted the values to make a real difference; it was not about just writing them on the wall or on our corporate materials, we knew it was much more than that. Following an extensive consultation exercise, we agreed not only those words which captured what was important to staff here at BCH, but also how these words translated into the behaviours which would ensure that our children, young people and their families receive the very best of care.

We then committed to working with each team across the Trust and facilitated workshops on wards and other clinical areas, as well as in back office areas, to really capture what the values and behaviours meant for each team. This was important as it helped staff develop their own interpretation of the values, enabling them to be owned by front line staff and therefore our chances of them making a real impact were much higher.

In addition to working with each of our teams we embedded the values into many other corporate processes such as recruitment, where we have developed a robust pre-recruitment screening tool which assesses staff attitudes. The appraisal process has been revamped and staff have fed back that including the values and behaviours has enabled them to have quality conversations about staff attitude, which previously they would have found difficult. Our values are embedded in all training programmes, in particular our leadership development. This centres around how leadership behaviours are critical to creating the best conditions for our staff to flourish; therefore using our values as a foundation for this development is critical.

Our patient feedback is now broken down into the values and it is reported through to our Board in this way which provokes a different level of debate about how our patients are experiencing care here at BCH. The quality walk rounds conducted by Board members and clinicians also seek to understand how the values are being lived out at the front line.

What difference has this made? Understanding the impact is important to us and we have developed two additional tools to support the national staff survey. We have a staff recommender poll which asks two questions: 'Would you recommend BCH as a place to be treated?' and 'Would you recommend BCH as a place to work?'. The staff poll runs for the first two weeks of every quarter. Our second measurement is a bespoke culture questionnaire that we use as part of the team workshops, but can also be used to assess team cultures pre and post an organisational change. Other metrics such as absenteeism, turnover and grievance casework are also monitored.

BCH has had a real focus this year, but we know we are still very early on in our journey, and have much to do. However, ensuring that management teams and senior leaders continue to focus on making our staff happier will ensure our children, young people and their families receive the very best care.

Theresa Nelson, Chief Officer for Workforce Development, BCH

Above all, the time was felt to be right for the Constitution to be much more centrally embedded in the work of new bodies such as the NHS Commissioning Board, Health and Well-being Boards, HealthWatch and CCGs, as well as in the work of organisations who are taking on slightly different roles in the new system (such as Monitor or the Care Quality Commission). As the Future Forum concludes its work, the key challenge seems to be not so much what the Constitution says, but how best to embed it in key national frameworks, processes and organisations, how to free local leaders up to implement the Constitution at practice level and how to support front-line staff to make the commitments of the Constitution real for patients.

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