VIEWS AND REVIEWS

ACUTE PERSPECTIVE

David Oliver: We need statutory duty of candour and transparency for NHS executives

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Robert Francis QC's report into historical care failings at Mid Staffordshire made over 200 recommendations.^{1,2} Most were endorsed by the government. These included a statutory duty of candour and transparency for doctors and nurses, to be enforced by their professional regulators—the General Medical Council and the Nursing and Midwifery Council. A few key recommendations were rejected or abandoned, including minimum safe nurse staffing levels and registration for healthcare assistants.³

Another recommendation seemingly deemed too difficult was statutory professional regulation for health service managers.⁴ This is a shame. Surely, a duty of candour and transparency should apply even more to people in such key senior roles than to a staff nurse or junior doctor: their actions or omissions affect far more patients. Suppressing or ignoring bad news was a major feature of the original Mid Staffordshire story. We now have a statutory duty of candour on provider organisations and fit and proper persons tests for trust directors, but this isn't the same as holding individual executives to account through a newly created professional regulatory body for managers.

The current serious concerns about NHS funding, workforce, demand, and consequent risks to performance and safety are well documented—and in plain sight.⁵ At last week's NHS Providers conference a panel of journalists discussing the NHS's reputation in the media advised NHS staff to speak out as frankly as they would to a friend or colleague about issues.⁶ The media might like that, but it could be career suicide. We have a culture among senior NHS managers that instils a fear of speaking up about problems. Check out, for example, online response boards in the *Health Service Journal* to see how few senior NHS managers dare put their name to posts.

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The Chartered Institute of Public Finance and Accountability reported concerns that senior NHS finance officers were being bullied into compromising their professional ethics.⁷ Very senior hospital executives were reportedly summoned to an NHS

Improvement meeting about emergency departments' performance. The atmosphere was reported by several attendees to be hostile, with executives humiliatingly forced to chant, "We can do this."⁸

The King's Fund's reports on the experience of NHS chief executives and finance directors highlight a culture of huge, top-down pressure and of people being judged failures against undeliverable expectations. "Oppressive scrutiny" and "bullying" regulators were mentioned.^{9,10}

It's generally much easier and more expected for senior doctors to speak out and put our names to comments. We have clinical "day jobs" to go back to, and the GMC discourages anonymity.¹¹ But senior NHS managers' tenure is often brief and precarious.¹² For middle managers in operational roles, who see more than most where the problems and risks to care lie, speaking out in public could be a bruising experience.

Thank goodness we've started to see a shift. For example, Andrew Foster, chief executive of Wigan and Wrightington hospitals, spoke recently about "understaffing across the NHS."¹³ Dame Julie Moore, of Birmingham University Hospitals, also pulled no punches on BBC2's *Newsnight* about the growing crisis in acute care provision.¹⁴

But those speaking out tend to be fireproof—chief executives long in the job, in well regarded organisations, and able to retire comfortably. In *The BMJ*, David Lock QC described an endemic culture in which NHS managers are prevented from speaking truth to power.¹⁵ Lock said that managers were also forced to collude with promises of unfunded, undeliverable, understaffed plans for service change and performance or savings that no one believes are deliverable.

I'd welcome statutory professional regulation for non-clinical senior NHS managers with the same legal obligations around candour and transparency. People shouldn't be forced to become whistleblowers, with all the personal risk it entails. It should be a key part of their role to describe problems that we all know are there but that aren't being made public.

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