Department of Health and Social Care

39 Victoria Street

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SW1H 0EU

11 June 2021

Dear Sirs

**Regulating healthcare professionals, protecting the public.**

APIL welcomes the opportunity to respond to the Department of Health and Social Care’s (DHSC) proposals in relation to regulating healthcare professionals. It is crucial that the regulatory framework includes patients and families in the fitness to practice and complaints process to ensure that they are fully informed and their voices are heard. Therefore, APIL supports the suggested fitness to practice process allowing issues to be dealt with more promptly and efficiently at a case examiner stage. This allows patients and their families to swiftly move forward with their lives. In addition, we support the introduction of a duty on regulators to ensure those who raise concerns are informed at key points through the process and when decisions have been made. This will improve communication and trust in the healthcare profession by ensuring transparency.

However, it is disappointing that although the DHSC state at the outset of the consultation document that ‘public safety is paramount and at the heart of professional regulation’[[1]](#footnote-1), this is not reflected throughout. The consultation fails to put the interests of the patient at the forefront of the regulatory proposals and fails to deal with the reasons why patients complain and what they expect from the regulation of healthcare professionals.

Common themes of patients’ concerns should be considered to better protect the public through the proposals. NHS Digital data on written complaints shows a total of 208,924 reported written complaints received between 1 April 2018 and 31 March 2019[[2]](#footnote-2). This may only be part of the picture because some complaints may not be documented and/or disclosed. In addition, research conducted in 2014 shows that less than half of people who experience poor care report it[[3]](#footnote-3). From the pre-pandemic data that has been collected, there has been a 25% increase in complaints relating to communication over the past four years[[4]](#footnote-4). Other common themes for patient complaints are a perceived lack of respect from healthcare professionals and concerns regarding investigations and treatments[[5]](#footnote-5). In light of this, the DHSC should focus on protecting the public by ensuring that healthcare professionals communicate with their patients effectively.

The pandemic has resulted in NHS Digital cancelling the collection of GP complaints[[6]](#footnote-6) and some NHS Trusts paused their complaints processes to allow healthcare professionals to deal with the pandemic[[7]](#footnote-7). Patient concerns may have increased significantly in light of the pandemic yet their concerns and complaints may not have been considered which results in a breakdown of the patient – professional relationship and trust in the profession. Many patients have had treatments and surgeries postponed due to unprecedented circumstances and will be desperately concerned about their health. Patients have also been unable to meet with a GP to discuss their health and have instead been forced to discuss their health matters virtually. Although the paper discusses the change in regulation to support flexibility for regulators to deal with another pandemic, it is crucial that patients are at the heart of the proposals. The paper fails to acknowledge the difference in how healthcare services are being delivered now and will be delivered in future. In addition, the regulators need to establish what patients expect of healthcare professionals post-pandemic and ensure that the patients are the paramount consideration and are being protected.

APIL is also concerned that NHS trusts have been permitted to withhold patient safety reports from the public and the regulators. Out of 111 reports on patient safety investigations, only 16 were put in the public domain and only 26 shared in full with NHS regulators over a five-year period[[8]](#footnote-8). This demonstrates a significant lack of oversight by regulators in relation to patient safety problems. This is yet another example of NHS trusts failing to learn from mistakes and preventing further incidents of the same nature. Patient safety should be the paramount consideration of the regulators. In light of this, APIL argues that it should be mandatory for NHS trusts to disclose patient safety reports to the healthcare regulators to ensure that the public are being protected from avoidable harm and adverse events. Without transparency in patient safety problems being reported and concerns being dealt with, the public will lose confidence in the healthcare system.

There should also be more focus on Continual Professional Development (CPD) hours and ensuring the knowledge of healthcare professionals is up-to-date to provide the best possible advice to patients. In light of the complaints data highlighted above and the new way in which healthcare services are being delivered, perhaps CPD hours should also focus on maintaining a good patient relationship. This could include managing expectations, ensuring patients are fully informed and respecting their concerns and decisions regarding their health and treatment options.

We hope that our comments prove useful to you.

Yours faithfully

Abi Jennings

Head of Legal Affairs

Association of Personal Injury Lawyers (APIL)

1. Department of Health & Social Care: Regulating healthcare professionals, protecting the public p 5 [↑](#footnote-ref-1)
2. NHS Digital Data on Written Complaints in the NHS – 2018 – 2019 [NS] (published 5 September 2019) [↑](#footnote-ref-2)
3. HealthWatch Suffering in Silence – Listening to consumer experiences of the health and social care complaints system (October 2014) p 2 [↑](#footnote-ref-3)
4. HealthWatch ‘What does NHS data about complaints tell us?’ (19 June 2019) < <https://www.healthwatch.co.uk/blog/2019-06-19/what-does-nhs-data-about-complaints-tell-us> > [↑](#footnote-ref-4)
5. W. Abdelrahman & A. Abdelmageed ‘Understanding patient complaints’ (BMJ 1 February 2017) < <https://www.bmj.com/content/356/bmj.j452> > [↑](#footnote-ref-5)
6. Pulse, A. Mohamoud ‘NHS Digital cancels annual collection of GP complaints data’ (26 October 2020) < <https://www.pulsetoday.co.uk/news/workload/nhs-digital-cancels-annual-collection-of-gp-complaints-data/> > [↑](#footnote-ref-6)
7. Nursing & Midwifery Council ‘Concerns, complaints and referrals during the Covid-19 pandemic’ (11 February 2021) < <https://www.nmc.org.uk/concerns-nurses-midwives/support-for-patients-families-and-public/public-information/> > [↑](#footnote-ref-7)
8. Denis Campbell The Guardian ‘UK hospitals accused of burying dozens of patient safety reports’ 19 May 2021 < <https://www.theguardian.com/society/2021/may/19/uk-hospitals-accused-burying-dozens-patient-safety-reports> > [↑](#footnote-ref-8)