

**PAPER**  
**MC 18/2009**

## **Report to the Meeting of the Members' Council**

**For: Information**

**22<sup>nd</sup> July 2009**

**NHS Constitution**

### **Executive Summary**

In July 2008 the consultation on the NHS Constitution was reported to the Members' Council. The final document is currently going through Parliament and is likely to become law in the autumn. A copy is attached.

The Trust needs to:

- Ensure that it can deliver on the requirement to 'have regard to' the various rights, pledges and values laid out in the NHS Constitution
- Be doing its utmost to embed the spirit of the constitution and using this opportunity to refresh the relationship between patients and staff and the public.

There is nothing in the Constitution which the Trust should not already be complying with (except where not relevant to the Trust) and the Trust will be ensuring continued compliance through existing monitoring mechanisms. A communications plan is to be developed to ensure that both staff and users of our services are aware of the Constitution and understand the rights and pledges.

### **Recommendation**

The Council is asked to note the NHS Constitution which is likely to become law in the autumn.

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**Date: 10<sup>th</sup> July 2009**





# THE NHS CONSTITUTION

the NHS belongs to us all

## The NHS belongs to the people.

It is there to improve our health and well-being, supporting us to keep mentally and physically well, to get better when we are ill and, when we cannot fully recover, to stay as well as we can to the end of our lives. It works at the limits of science – bringing the highest levels of human knowledge and skill to save lives and improve health. It touches our lives at times of basic human need, when care and compassion are what matter most.

The NHS is founded on a common set of principles and values that bind together the communities and people it serves – patients and public – and the staff who work for it.

**This 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 will be required by law to take account of this Constitution in their decisions and actions.

The Constitution will be renewed every 10 years, with the involvement of the public, patients and staff. It will be accompanied by the Handbook to the NHS Constitution, to be renewed at least every three years, setting out current guidance on the rights, pledges, duties and responsibilities established by the Constitution. These requirements for renewal will be made legally binding. They will guarantee that the principles and values which underpin the NHS are subject to regular review and recommitment; and that any government which seeks to alter the principles or values of the NHS, or the rights, pledges, duties and responsibilities set out in this Constitution, will have to engage in a full and transparent debate with the public, patients and staff.

# 1. Principles that guide the NHS

Seven key principles guide the NHS in all it does. They are underpinned by core NHS values which have been derived from extensive discussions with staff, patients and the public. These values are set out at the back of this document.

**1. The NHS provides a comprehensive service, available to all** irrespective of gender, race, disability, age, sexual orientation, religion or belief. It has a duty to each and every individual that it serves and must respect their human rights. At the same time, it has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.

**2. Access to NHS services is based on clinical need, not an individual's ability to pay.** NHS services are free of charge, except in limited circumstances sanctioned by Parliament.

**3. The NHS aspires to the highest standards of excellence and professionalism** – in the provision of high-quality care that is safe, effective and focused on patient experience; in the planning and delivery of the clinical and other services it provides; in the people it employs and the education, training and development they receive; in the leadership and management of its organisations; and through its commitment to innovation and to the promotion and conduct of research to improve the current and future health and care of the population.

**4. NHS services must reflect the needs and preferences of patients, their families and their carers.** Patients, with their families and carers, where appropriate, will be involved in and consulted on all decisions about their care and treatment.

**5. The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.** The NHS is an integrated system of organisations and services bound together by the principles and values now reflected in the Constitution. The NHS is committed to working jointly with local authorities and a wide range of other private, public and third sector organisations at national and local level to provide and deliver improvements in health and well-being.

**6. The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources.** Public funds for healthcare will be devoted solely to the benefit of the people that the NHS serves.

**7. The NHS is accountable to the public, communities and patients that it serves.** The NHS is a national service funded through national taxation, and it is the Government which sets the framework for the NHS and which is accountable to Parliament for its operation. However, most decisions in the NHS, especially those about the treatment of individuals and the detailed organisation of services, are rightly taken by the local NHS and by patients with their clinicians. The system of responsibility and accountability for taking decisions in the NHS should be transparent and clear to the public, patients and staff. The Government will ensure that there is always a clear and up-to-date statement of NHS accountability for this purpose.

## 2a. Patients and the public – your rights and NHS pledges to you

Everyone who uses the NHS should understand what legal rights they have. For this reason, important legal rights are summarised in this Constitution and explained in more detail in the Handbook to the NHS Constitution, which also explains what you can do if you think you have not received what is rightfully yours. This summary does not alter the content of your legal rights.

The Constitution also contains pledges that the NHS is committed to achieve. Pledges go above and beyond legal rights. This means that pledges are not legally binding but represent a commitment by the NHS to provide high quality services.

### Access to health services:

**You have the right** to receive NHS services free of charge, apart from certain limited exceptions sanctioned by Parliament.

**You have the right** to access NHS services. You will not be refused access on unreasonable grounds.

**You have the right** to expect your local NHS to assess the health requirements of the local community and to commission and put in place the services to meet those needs as considered necessary.

**You have the right**, in certain circumstances, to go to other European Economic Area countries or Switzerland for treatment which would be available to you through your NHS commissioner.

**You have the right** not to be unlawfully discriminated against in the provision of NHS services including on grounds of gender, race, religion or belief, sexual orientation, disability (including learning disability or mental illness) or age.<sup>1</sup>

### The NHS also commits:

- to provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution (pledge);
- to make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered (pledge); and
- to make the transition as smooth as possible when you are referred between services, and to include you in relevant discussions (pledge).

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<sup>1</sup> The Government intends to use the Equality Bill to make unjustifiable age discrimination against adults unlawful in the provision of services and exercise of public functions. Subject to Parliamentary approval, this right not to be discriminated against will extend to age when the relevant provisions are brought into force for the health sector.

### Quality of care and environment:

**You have the right** to be treated with a professional standard of care, by appropriately qualified and experienced staff, in a properly approved or registered organisation that meets required levels of safety and quality.<sup>2</sup>

**You have the right** to expect NHS organisations to monitor, and make efforts to improve, the quality of healthcare they commission or provide.

#### The NHS also commits:

- to ensure that services are provided in a clean and safe environment that is fit for purpose, based on national best practice (pledge); and
- to continuous improvement in the quality of services you receive, identifying and sharing best practice in quality of care and treatments (pledge).

### Nationally approved treatments, drugs and programmes:

**You have the right** to drugs and treatments that have been recommended by NICE<sup>3</sup> for use in the NHS, if your doctor says they are clinically appropriate for you.

**You have the right** to expect local decisions on funding of other drugs

and treatments to be made rationally following a proper consideration of the evidence. If the local NHS decides not to fund a drug or treatment you and your doctor feel would be right for you, they will explain that decision to you.

**You have the right** to receive the vaccinations that the Joint Committee on Vaccination and Immunisation recommends that you should receive under an NHS-provided national immunisation programme.

#### The NHS also commits:

- to provide screening programmes as recommended by the UK National Screening Committee (pledge).

### Respect, consent and confidentiality:

**You have the right** to be treated with dignity and respect, in accordance with your human rights.

**You have the right** to accept or refuse treatment that is offered to you, and not to be given any physical examination or treatment unless you have given valid consent. If you do not have the capacity to do so, consent must be obtained from a person legally able to act on your behalf, or the treatment must be in your best interests.<sup>4</sup>

<sup>2</sup> The registration system will apply to some NHS providers in respect of infection control from 2009, and more broadly from 2010. Further detail is set out in the Handbook to the NHS Constitution.

<sup>3</sup> NICE (the National Institute for Health and Clinical Excellence) is an independent NHS organisation producing guidance on drugs and treatments. 'Recommended' means recommended by a NICE technology appraisal. Primary care trusts are normally obliged to fund NICE technology appraisals from a date no later than three months from the publication of the appraisal.

<sup>4</sup> If you are detained in hospital or on supervised community treatment under the Mental Health Act 1983 different rules may apply to treatment for your mental disorder. These rules will be explained to you at the time. They may mean that you can be given treatment for your mental disorder even though you do not consent.



**You have the right** to be given information about your proposed treatment in advance, including any significant risks and any alternative treatments which may be available, and the risks involved in doing nothing.

**You have the right** to privacy and confidentiality and to expect the NHS to keep your confidential information safe and secure.

**You have the right** of access to your own health records. These will always be used to manage your treatment in your best interests.

**The NHS also commits:**

- to share with you any letters sent between clinicians about your care (pledge).

**Informed choice:**

**You have the right** to choose your GP practice, and to be accepted by that practice unless there are reasonable grounds to refuse, in which case you will be informed of those reasons.

**You have the right** to express a preference for using a particular doctor within your GP practice, and for the practice to try to comply.

**You have the right** to make choices about your NHS care and to information to support these choices. The options available to you will develop over time and depend on your individual needs. Details are set out in the Handbook to the NHS Constitution.

**The NHS also commits:**

- to inform you about the healthcare services available to you, locally and nationally (pledge); and
- to offer you easily accessible, reliable and relevant information to enable you to participate fully in your own healthcare decisions and to support you in making choices. This will include information on the quality of clinical services where there is robust and accurate information available (pledge).

**Involvement in your healthcare and in the NHS:**

**You have the right** to be involved in discussions and decisions about your healthcare, and to be given information to enable you to do this.

**You have the right** to be involved, directly or through representatives, in the planning of healthcare services, the development and consideration of proposals for changes in the way those services are provided, and in decisions to be made affecting the operation of those services.

**The NHS also commits:**

- to provide you with the information you need to influence and scrutinise the planning and delivery of NHS services (pledge); and
- to work in partnership with you, your family, carers and representatives (pledge).

### Complaint and redress:

**You have the right** to have any complaint you make about NHS services dealt with efficiently and to have it properly investigated.

**You have the right** to know the outcome of any investigation into your complaint.

**You have the right** to take your complaint to the independent Health Service Ombudsman, if you are not satisfied with the way your complaint has been dealt with by the NHS.

**You have the right** to make a claim for judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body.

**You have the right** to compensation where you have been harmed by negligent treatment.

### The NHS also commits:

- to ensure you are treated with courtesy and you receive appropriate support throughout the handling of a complaint; and the fact that you have complained will not adversely affect your future treatment (pledge);
- when mistakes happen, to acknowledge them, apologise, explain what went wrong and put things right quickly and effectively (pledge); and
- to ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services (pledge).

## 2b. Patients and the public – your responsibilities

The NHS belongs to all of us. There are things that we can all do for ourselves and for one another to help it work effectively, and to ensure resources are used responsibly:

**You should recognise** that you can make a significant contribution to your own, and your family's, good health and well-being, and take some personal responsibility for it.

**You should register with a GP practice** – the main point of access to NHS care.

**You should treat NHS staff and other patients with respect** and recognise that causing a nuisance or disturbance on NHS premises could result in prosecution.

**You should provide** accurate information about your health, condition and status.

**You should keep appointments,** or cancel within reasonable time. Receiving treatment within the maximum waiting times may be compromised unless you do.

**You should follow the course of treatment** which you have agreed, and talk to your clinician if you find this difficult.

**You should participate** in important public health programmes such as vaccination.

**You should ensure** that those closest to you are aware of your wishes about organ donation.

**You should give feedback** – both positive and negative – about the treatment and care you have received, including any adverse reactions you may have had.

## 3a. Staff – your rights and NHS pledges to you

**It is the commitment, professionalism and dedication of staff working for the benefit of the people the NHS serves which really make the difference. High quality care requires high quality workplaces, with commissioners and providers aiming to be employers of choice.**

All staff should have rewarding and worthwhile jobs, with the freedom and confidence to act in the interest of patients. To do this, they need to be trusted and actively listened to. They must be treated with respect at work, have the tools, training and support to deliver care, and opportunities to develop and progress.

The Constitution applies to all staff, doing clinical or non-clinical NHS work, and their employers. It covers staff wherever they are working, whether in public, private or third sector organisations.

Staff have extensive **legal rights**, embodied in general employment and discrimination law. These are summarised in the Handbook to the NHS Constitution. In addition, individual contracts of employment contain terms and conditions giving staff further rights.

The rights are there to help ensure that staff:

- have a good working environment with flexible working opportunities, consistent with the needs of patients and with the way that people live their lives;
- have a fair pay and contract framework;
- can be involved and represented in the workplace;
- have healthy and safe working conditions and an environment free from harassment, bullying or violence;
- are treated fairly, equally and free from discrimination; and

- can raise an internal grievance and if necessary seek redress, where it is felt that a right has not been upheld.

In addition to these legal rights, there are a number of **pledges**, which the NHS is committed to achieve. Pledges go above and beyond your legal rights. This means that they are not legally binding but represent a commitment by the NHS to provide high-quality working environments for staff.

### The NHS commits:

- to provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities (pledge);
- to provide all staff with personal development, access to appropriate training for their jobs and line management support to succeed (pledge);
- to provide support and opportunities for staff to maintain their health, well-being and safety (pledge); and
- to engage staff in decisions that affect them and the services they provide, individually, through representative organisations and through local partnership working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families (pledge).

## 3b. Staff – your responsibilities

All staff have responsibilities to the public, their patients and colleagues.

Important legal duties are summarised below.

**You have a duty** to accept professional accountability and maintain the standards of professional practice as set by the appropriate regulatory body applicable to your profession or role.

**You have a duty** to take reasonable care of health and safety at work for you, your team and others, and to co-operate with employers to ensure compliance with health and safety requirements.

**You have a duty** to act in accordance with the express and implied terms of your contract of employment.

**You have a duty** not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation.

**You have a duty** to protect the confidentiality of personal information that you hold unless to do so would put anyone at risk of significant harm.

**You have a duty** to be honest and truthful in applying for a job and in carrying out that job.

The Constitution also includes **expectations** that reflect how staff should play their part in ensuring the success of the NHS and delivering high-quality care.

### You should aim:

- to maintain the highest standards of care and service, taking responsibility not only for the care you personally provide, but also for your wider contribution to the aims of your team and the NHS as a whole;
- to take up training and development opportunities provided over and above those legally required of your post;
- to play your part in sustainably improving services by working in partnership with patients, the public and communities;
- to be open with patients, their families, carers or representatives, including if anything goes wrong; welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation. You should contribute to a climate where the truth can be heard and the reporting of, and learning from, errors is encouraged; and
- to view the services you provide from the standpoint of a patient, and involve patients, their families and carers in the services you provide, working with them, their communities and other organisations, and making it clear who is responsible for their care.

## NHS values

Patients, public and staff have helped develop this expression of values that inspire passion in the NHS and should guide it in the 21st century. Individual organisations will develop and refresh their own values, tailored to their local needs. The NHS values provide common ground for co operation to achieve shared aspirations.

**Respect and dignity.** We value each person as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest about our point of view and what we can and cannot do.

**Commitment to quality of care.** We earn the trust placed in us by insisting on quality and striving to get the basics right every time: safety, confidentiality, professional and managerial integrity, accountability, dependable service and good communication. We welcome feedback, learn from our mistakes and build on our successes.

**Compassion.** We respond with humanity and kindness to each person's pain, distress, anxiety or need. We search for the things we can do, however small, to give comfort and relieve suffering. We find time for those we serve and work alongside. We do not wait to be asked, because we care.

**Improving lives.** We strive to improve health and well-being and people's experiences of the NHS. We value excellence and professionalism wherever we find it – in the everyday things that make people's lives better as much as in clinical practice, service improvements and innovation.

**Working together for patients.** We put patients first in everything we do, by reaching out to staff, patients, carers, families, communities, and professionals outside the NHS. We put the needs of patients and communities before organisational boundaries.

**Everyone counts.** We use our resources for the benefit of the whole community, and make sure nobody is excluded or left behind. We accept that some people need more help, that difficult decisions have to be taken – and that when we waste resources we waste others' opportunities. We recognise that we all have a part to play in making ourselves and our communities healthier.