professional standards authority

Safer care for all conference - 9 November 2022

Summary of themes arising

This is a summary of the key themes arising at the *Safer care for all* conference, held virtually on 9 November 2022. At the event we asked questions including:

- Is regulation keeping patients safe?
- Health and Social Care Safety Commissioners: a solution to bridge the safety gaps in all UK countries?
- Are learning cultures compatible with individual accountability and openness when mistakes are made?
- Does regulation need to change to deliver the workforce of the future?
- Are commercial interests in health and care harming people?
- Do health/care professionals have a duty to tackle inequalities?

The following themes and issues arose across the different sessions of the day.

A change in approach

- Across the day there was broad agreement that current systems in place to ensure patient safety are not working.
- The changing context of delivery was noted – past factors leading to failure have still not been fixed and new risks are now emerging.
- Further focus is needed to address culture and leadership, including through education and training – regulators have an important role in this including challenging those in leadership positions where appropriate.
- The view was expressed that regulation needs to 'enable improvement rather than apportioning blame'. Behaviour is controlled by what's valued and respected, what's modelled and what's measured. Regulation needs to measure the behaviour we want to see, not what's easy to measure.
- There is the need for a change in approach to workforce – greater encouragement into professions and emphasis on career paths.
- Regulation should be a key up-front consideration when discussing new roles and responsibilities – including when considering relationships and dynamics within the multi-disciplinary team.
- More regulation isn't always the answer – there should be a more coordinated approach to the regulation of different groups.
- There is a need for effective multi-disciplinary team (MDT) working that enables staff to work at the top of their licence – this requires a look at competencies rather than the traditional occupational label.

- Regulators should go further in their outreach to employers and work with them to tackle issues around culture.
- Some speakers highlighted the leadership responsibilities of healthcare professionals and organisations on equality, diversity and inclusion (EDI) and expressed a view that greater join-up between regulators is needed on their policy approach.
- Some speakers expressed the view that a common code of conduct for professionals could support a stronger shared approach to: positive culture, MDT working, transparency and consistency.

The voice of patients and service users

- The view was expressed across the day that the voice of patients still isn't being heard – patients and families want to be listened to with genuine care and to be partners in their care, but this isn't always happening and raising complaints isn't easy.
- Trust between patients, service users and healthcare professionals has been damaged by repeated failures.
- Regulators need to make better use of the voices of people with lived experience, considering co-production where possible and encouraging clinicians to work in partnership with patients.

Lessons are still not being learnt

- Speakers agreed that when things go wrong lessons must be learnt, but the current systems are not facilitating this effectively. It is difficult to move the dial on this when inquiries often find that there have been multiple opportunities for change that were not taken.
- There was an example provided in Northern Ireland, where one Trust assured the Department of Health that new guidelines were being adhered to, yet it was found this wasn't the case. Multiple speakers referred to the recent inquiry into maternity services in East Kent demonstrating failure across the system to learn lessons.
- Speakers from different organisations stressed that when lessons are not learnt, patients are harmed. Patients want to know that the health and care system will learn to avoid the same things happening again.
- There was consensus that culture change across the system must be driven forward. Speakers spoke of the need for an appreciation of just, learning cultures from the very top, with sufficient time given to training, to investigations themselves and to mediation. There was a consensus that patient safety needs to be at the centre of Integrated Care Systems – a step toward this could be senior leadership attendance at patient safety events.
- Others suggested a move toward 'positive accountability', where regulation is reframed as aspirational and helpful toward self-development recognising that learning requires both acceptance and action.

- The 2021 NHS staff survey in England shows: 25% would not feel safe to speak up about unsafe clinical practices, over 40% would not feel confident that their organisations would act on or address their concerns – and this assumes that the NHS staff have time to raise the issues.
- In government, there needs to be an appreciation of what a just culture is at the very top, policies need to be screened to see if they are compatible with a just culture in health and social care.

Continuing failures in candour

- When discussing the need for patients' voices to be heard, candour and honesty were described as essential parts of ensuring a just, learning culture. Candour was described by one speaker as a fundamental standard, just as important as 'do no harm', and that a failure to be honest causes a significant 'second harm'.
- Speakers gave examples of where candour has not been forthcoming, and some raised concerns that candour must not be limited to 'safe spaces' since that may limit opportunities for accountability.
- Persistent failings in candour led the Hyponatraemia Inquiry in Northern Ireland to call for a statutory duty of candour for organisations and individuals. Providing the duty for individuals can empower and oblige junior doctors and healthcare professionals to speak up regarding senior staff, where power dynamics may be a barrier to whistleblowing.
- Ongoing barriers to candour included dynamics within organisations where there might be a reluctance to expose failings by others, particularly those in senior positions. Other barriers included the fear of being scapegoated.
- Representatives of patient groups reflected on how candour can give patients the confidence that professionals will treat them like a person, with a life and family outside of healthcare. Once harm has occurred, honesty is key to patients being reassured that the same harm won't happen again.
- Organisations' active support for candour is a key requirement for delivering a positive culture. Cross-regulator roundtables on the duty of candour were discussed, along with the critical role that regulators play in ensuring an open and honest culture.
- The view was expressed by one speaker that candour is both a professional, moral and an organisational statutory duty and we must create an environment in which people who are candid do not suffer unreasonable repercussions.

Data: its use, misuse and how to use it better

- Data and information – what it's showing us now, where we are failing to join the dots, how data has been misused, and how it could be used – was a common point of discussion throughout sessions.
- A number of speakers identified failures to identify patterns in data indicating where things had gone wrong – an example provided was the length of time it took to identify concerns that led to the Hyponatraemia Related Deaths Inquiry in Northern Ireland.

- Misuse of data and monitoring was brought up when discussing organisational culture. Speakers discussed how what is data is valued and measured can control behaviour. This means that we must ensure regulation measures the behaviour we want to promote, not what's simply what is easy to measure.
- Regulators, and representative bodies reflected on how data is needed to understand the impacts of inequalities across the sector. Examples of this included the under-representation of those with protected characteristics across senior positions and over-representation in fitness to practise referrals. Speakers spoke of the need for data to understand if services are anti-discriminatory and inclusive.
- The need for regulators to use data to monitor outcomes over both the long- and short term was identified. Actions taken with long-term impacts included the recruitment of executives from the pool of employees with protected characteristics, and in the short term, data could help identify gender and ethnicity pay gaps.
- Speakers discussed the need to come together collectively to share data. By collating EDI data, regulators can better understand the impact of policies and processes and address any inequalities they may find.
- The value of data in supporting upstream regulation was discussed – interrogating the data and reflecting the findings to, and working in concert with, employers as a lot of the disparity in fitness to practise referrals is around workplace cultures. This can also identify the need to better support registrants who come from overseas.
- It was suggested that data can be used to better make a business case on EDI to encourage action for practical as well as ethical reasons e.g. to support recruitment and retention.

Impatience for much-needed reform

- Speakers agreed that reform is needed and is overdue. They described the limitations of current legislation and the need for government to intervene to facilitate solutions that are blocked by outdated statutes.
- Many of the professional regulators explained how their current legislation is a major barrier to improving their performance. Legislation across different professions was described as flawed and confusing for patients, and focused on retributive (rather than restorative) regulation.
- Speakers from regulators emphasised that reform provides a unique opportunity to ensure professional regulator legislation is fit for the future and digital age. Questions posed included: how commercial interests should be managed in health and care and whether a commercially focused optical market works in the best interests of patients.
- The view was expressed that the regulatory framework around conflicts of interest should be reviewed with prohibition rather than management of inappropriate conflicts considered, and consideration of having a patient safety regulator enforcing the rules in this area rather than the competition regulator.
- Some concern was expressed that reforms to professional regulation will not be sufficiently ambitious and highlighted the lived experiences of those undergoing

fitness to practise cases, with a large variation in the way professionals are treated.

- There was a call on the government to reduce inequalities, and to support healthcare professionals in tackling inequality.
- The view was expressed that stronger, more meaningful protection is needed for whistle-blowers and staff.
- The case for the regulation for health service managers was made with reference to the fact that managers are unregulated, and management has been referenced a contributor to toxic cultures, failures and cover-ups in recent inquiry reports.