

Witness Name: Ken
Jarrold
Statement No.: 1
Exhibits: KJ/1
Dated: 06/03/2024

THIRLWALL INQUIRY

WITNESS STATEMENT OF KEN JARROLD CBE

I, Ken Jarrold will say as follows: -

1. The Code of Conduct for NHS Managers [2002] [Exhibit KJ/1 INQ0107810] asks managers to “make the care and safety of patients [their] first concern and to act to protect them from risk”. I chaired the group that produced the code and drafted it. I had learned this value and everything else I needed to know, from my first boss Jack Newton at the Royal Hospital in Sheffield in the early seventies
2. The experience that embedded this value in my heart and mind came later in my career. I had just started a new job and a senior surgeon asked me if I was married. I said that I was and he advised me to make sure that my wife was not referred to one of his colleagues. I asked me why and he replied by shrugging his shoulders and advising me to look at the legal files. I did that and understood the advice! In those days it would have been very difficult to challenge the surgeon directly and so I set up a review of the service and invited evidence. The surgeon with the issues replied to say that he would not reply to a letter from a “snivelling clerk”. I was the most senior manager in the organisation!
3. A few weeks later the surgeon who had given me the advice asked me how I was getting on with the review. I told him that I was getting nowhere. He sympathised and said it was very difficult. I could have left it there but somehow found the courage to challenge him. I asked him to look in the mirror when he got home and to ask himself if he could live with what he knew. He never forgave me for the challenge and it affected my relationship with the consultants as a whole. However, a few days later, the consultant he had warned me about was visited by the three wise men – senior consultants who were responsible for problem doctors – and he resigned on grounds of ill health. The service was transformed by his successor.
4. I never forgot this lesson and for the rest of my time in the NHS as a manager and Chair tried to live the value of making the care and safety of patients my first concern and to

act to protect them from risk. When I was asked to produce the Code of Conduct as part of the Government's response to the Kennedy Report on the events in Bristol, I knew where to start.

5. In 2001, The Report of the Public Inquiry into children's heart surgery at the Bristol Royal Infirmary - the Kennedy Report - recommended that there should be "for senior healthcare managers, a new professional body. [Page446] and that

"Managers as healthcare professionals should be subject to the same obligations as other healthcare professionals, including being subject to a regulatory body and professional code of practice. (See Recommendation 70.) [Page 448]"

The Government did not wish to implement this recommendation and in its response to the report, "Learning from Bristol", published in 2002, said "We agree in part. We do not think it is practicable to establish self-regulation for senior managers. We agree that the standards expected of senior managers should be explicit. We favour a code of conduct, stronger performance management and tighter contracts rather than regulation".

6. Nigel Crisp, then the CE of the NHS, asked me to chair a Working group to draft the code. The core group included representatives from the Institute of Healthcare Management, the NHS Confederation, the British Association of Medical Managers, the Modernisation Agency and the Healthcare Financial Management Association. A wider reference group was established including Dame Rennie Fritchie, the Commissioner for Public Appointments – now Baroness Fritchie – and Julia Neuberger, Director of the King's Fund – now Baroness Neuberger. Nigel Crisp launched the consultation on the draft code on the 23rd May 2002. The Code was launched by Nigel Crisp on the 9th of October 2002 and issued to the NHS on the 21st October with a covering letter that said that:

"The Code sets out the core standards of conduct expected of all senior managers and should be incorporated into the employment contracts of all senior managers at the earliest opportunity. Employers should also begin to:

- identify other managers in their organisation who should also be subject to the Code
- look at their organisational culture to ensure they are providing a supportive environment to managers
- ensure systems are in place to fairly investigate any breaches of the code".

7. It was clear to me by the time I retired from full time work as a CE of a Strategic Health Authority at the end of 2005, and in the years that followed in my work as a Non-Executive Chair and Management Consultant 2006-2023, that the Code was not being implemented as intended. This was a great sadness to me.

8. I knew that it was vital that the Code was implemented and that managers should “make the care and safety of patients my first concern and act to protect them from risk”. I had long been concerned about the new managerialism introduced in the NHS following the Griffiths Report [1983] and reinforced by the NHS Reforms introduced by Ken Clarke in 1989 and which are largely still in place – the longest enduring NHS reforms. My fears were assuaged by working with Roy Griffiths and Ken Clarke and realising that they were good men who were committed to the NHS. I believe that General Management, introduced as a result of the Griffiths Report, and NHS Trusts, a key feature of the Clarke Reforms, have brought great benefits to the NHS. However, like every other human endeavour there was a downside. In this case, the focus on the general management approach and the individual organisation, the NHS Trust, carried the danger that the organisation and its reputation would be seen as more important than patient safety and that “the care and safety of patients” would not be the managers’ first concern.

9. The Leadership Competency Framework [LCF] published on the 28th of February 2024, is for all board members of NHS providers, ICBs and NHS England’s Board. It has been developed in response to a recommendation from the Tom Kark KC (2019) review of the Fit and Proper Persons Test. The Test is described in the NHS England Fit and Proper Person Test Framework for board members, published in August 2023. A Framework for Chair’s Appraisals has also been published. The three frameworks are part of a wider programme of management and leadership development being led by NHS England with education partners, staff and stakeholders, to implement the recommendations in the Health and social care review: leadership for a collaborative future (known as the Messenger Review), as well as the recommendations from other reviews and reports on NHS leadership and management.

10 The LCF is based on 6 domains, each with a range of competencies. For each domain there is a description of what good looks like, as well as an optional scoring guide to help with self-assessment and development. NHS England say that the domains should be incorporated into all NHS board member role descriptions and recruitment processes from 1 April 2024. They should also form a core part of board member appraisals and the ongoing development of individuals and the board as a whole. The competency domains will also be

built into national leadership programmes and support offers for board directors and aspiring board directors.

11. The 6 domains are:

1 Driving high-quality and sustainable outcomes

The skills, knowledge and behaviours needed to deliver and bring about high quality and safe care and lasting change and improvement – from ensuring all staff are trained and well led, to fostering improvement and innovation which leads to better health and care outcomes.

2 Setting strategy and delivering long-term transformation

The skills that need to be employed in strategy development and planning, and ensuring a system wide view, along with using intelligence from quality, performance, finance and workforce measures to feed into strategy development.

3 Promoting equality and inclusion, and reducing health and workforce inequalities

The importance of continually reviewing plans and strategies to ensure their delivery leads to improved services and outcomes for all communities, narrows health and workforce inequalities, and promotes inclusion.

.4 Providing robust governance and assurance

The system of leadership accountability and the behaviours, values and standards that underpin our work as leaders. This domain also covers the principles of evaluation, the significance of evidence and assurance in decision making and ensuring patient safety, and the vital importance of collaboration on the board to drive delivery and improvement.

5. Creating a compassionate, just and positive culture

The skills and behaviours needed to develop great team and organisation cultures. This includes ensuring all staff and service users are listened to and heard, being respectful and challenging inappropriate behaviours.

6. Building a trusted relationship with partners and communities

The need to collaborate, consult and co-produce with colleagues in neighbouring teams, providers and systems, people using services, our communities, and our workforce. Strengthening relationships and developing collaborative behaviours are key to the integrated care environment.

12. I have three reservations about the Frameworks. First, there is no specific reference to the care and safety of patients” being the first concern of board members and the need to “act to protect them from risk”. Second, the system depends on self-assessment. Third, the Framework is dependent on the appraisal system. My experience of appraisal suggests that it is rarely done well and is not a meaningful process. It is often rushed and superficial and becomes a tick box exercise. I think it is unlikely that the LCF will have an impact on the culture of the NHS.

13. If the management culture of the NHS is to be changed, a Code of Conduct should be developed which includes a clear statement that managers at all levels should “make the care and safety of patients [their] first concern and to act to protect them from risk.” The Code should be launched by the Chief Executive of NHS England and the CE should set an example by her own behaviour and require all Chief Executives to do the same. The Code should be incorporated in the contracts of all NHS managers. Breaches of the Code should be rigorously investigated and appropriate action taken. This has the potential to change the management culture of the NHS and to make it less likely that managers will place the reputation of their organisation, or their own reputation, above the care and safety of patients.

Statement of Truth.

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

PD

Signed: _____

Dated: _6th March 2024_____