

Witness Name: Patricia Marquis

Statement No: 2

Exhibits: PM69 – PM71

Dated: 03 July 2024

THIRLWALL INQUIRY

WITNESS STATEMENT OF PATRICIA MARQUIS

I, Patricia Marquis, Director for England at The Royal College of Nursing (“**the RCN**”) of 20 Cavendish Square, London W1G 0RN, will say as follows: -

1. I make this supplementary statement in response to the Thirlwall Inquiry’s (“the Inquiry’s”) Request for Evidence under Rule 9 of the Inquiry Rules 2006, dated 19 June 2024 and further to my initial witness statement dated 21 March 2024. The facts and matters contained within this statement are within my own knowledge unless otherwise stated, and I believe them to be true. Where I refer to information supplied by others, the source of the information is identified; facts and matters derived from other sources are true to the best of my knowledge and belief.
2. I make this statement on behalf of the RCN and confirm that I am duly authorised to do so.

RCN representatives

3. RCN representatives, also known as stewards, are RCN members who take on the role on a voluntary basis in addition to their regular employment. They are not employed by the RCN. Representatives meet with members to provide local level support in respect of investigatory, disciplinary and grievance related processes. We expect RCN representatives to help members write their statements, respond to allegations, analyse the applicable policies and to attend meetings with them to support and guide them through the relevant process.

4. RCN members know that they can approach their local representative for help, advice and representation that will be rooted in local knowledge and supported by the national expertise of the RCN.
5. When members are facing difficult employment issues, RCN representatives will aim to ensure that members feel empowered to speak up and engage in formal processes.
6. RCN representatives are expected to support and represent RCN members during formal processes to the best of their ability, and to represent members collectively on matters relating to pay and terms and conditions. In addition, they are to create and build workplace relationships and attend and contribute to workplace committees and groups. All activity is carried out with support of, and in partnership with, the local RCN officers and community of RCN representatives.
7. RCN representatives who are supporting members during a formal local level process, are tasked with ensuring that the member is subject to a fair process in accordance with the employer's local policies, the terms and conditions of their employment and the principles of natural justice. Their focus is on supporting the member, rather than assisting the employer or a patient. They can play a key role in ensuring that any action taken against the member takes into account extenuating circumstances, is proportionate and appropriate to the case. Their representation should be free of judgment: it is not the role of an RCN representative to judge the member's circumstances nor to commence their own investigation into the matters in issue.

Safeguarding

8. It is the responsibility of the employer to ensure that their staff receive appropriate safeguarding training commensurate with their role. The RCN understands that the provision of safeguarding training is a mandatory requirement for NHS employees.
9. The RCN published guidance for nursing staff 'Safeguarding children and young people – every nurse's responsibility' dated 2014 [PM/69] which provides guidance on the signs of harm, identifying abuse and neglect and the roles and responsibilities of nursing staff. [INQ0102689]

10. RCN representatives are required to undertake a learning and development programme known as 'the pathway' before they are accredited. The pathway is a framework of activities that representatives will undertake in practice and the learning needed to perform them. The pathway is a blended learning experience that comprises both online and self-directed learning and three group learning events.
11. As part of group discussions on the pathway, RCN representatives are advised to encourage members to be open and honest. If a member were to alert an RCN representative to patient care being at risk, the RCN representative should attempt to persuade the member to make a disclosure. Where there is a fear of the member suffering a detriment because of the disclosure, the representative is advised to escalate internally to the supervising RCN officer, who in turn would consider disclosure to the employer.

Freedom to Speak Up Guardian

12. The RCN recognised, along with other Trade Unions, that there was a conflict of interest between the role of the Freedom to Speak Up Guardian and the role of RCN representative.
13. The RCN had the following concerns:
 - i) Freedom to Speak Up Guardians had been reported as sitting on staff side committees and attending Joint Negotiating Consultative Committees which was not appropriate as they are not part of partnership working between unions and employers.
 - ii) Further concerns included instances where Freedom to Speak Up Guardians had represented staff in formal processes which is clearly not their role, and this posed a risk to members and the recognised Trade Unions and partnership working.
 - iii) It was also considered that Freedom to Speak Up Guardians report into Trust management structures, whereas RCN representatives do not and it gave the appearance of bias.
 - iv) It was felt that members should be clear about what support they should expect to receive from their RCN representative and what a Freedom

To Speak Up Guardian's role is and if one individual held both positions those roles became blurred and confused.

- v) It was also recognised that there was inconsistency across the UK where the role had been more effectively managed in some Trusts than in others. This situation had arisen from the lack of guidance and training provided by the National Guardians Office ('NGO'), and this presented a risk.

14. This issue was considered carefully at length by a working group established in September 2020 comprised of nominated members of the RCN UK Stewards Committee, the RCN UK Safety Reps Committees and staff who produced recommendations for both the Trade Union Committee and Member Experience and Journey Strategy Board in 2022. The issue was then further considered by a working group of the RCN Trade Union Committee.

15. The discussions concluded that there was a conflict of interest between the RCN rep role and Freedom to Speak Up Guardian role which affected the service that RCN members receive. Further concerns were also raised around how potentially the Freedom of Speak Up Guardian role could adversely affect the Trade Unions relationship within an organisation.

16. Consequently, the RCN issued a position statement on 19 May 2022 that RCN representatives could not also hold the position of Freedom to Speak Up Guardian, as this created a conflict of interests and was a potential detriment for RCN members [INQ0102687] [PM/70]. Existing representatives who held both roles were asked to relinquish one of those roles prior to 1 December 2022. This was widely disseminated to RCN members at the time and remains live on the RCN intranet and RCN representative's hub.

17. We would encourage and support members to speak to a Freedom to Speak Up Guardian to raise concerns.

Raising Fitness to Practise Concerns

18. The RCN published on its website 'Raising concerns: a guide for RCN members' in 2015. Whilst we do not currently have a published copy of this guide, because it was published via an old system, we do have a final draft version available [PM/71]. This

[INQ0102688]

document was reviewed and revised and the Inquiry has copies of subsequent versions.

19. The Nursing and Midwifery Council ('**NMC**') is the independent regulator for nurses, and midwives in England, Wales, Scotland and Northern Ireland and nursing associates in England. Their core role is to regulate the profession by investigating concerns. The NMC publishes advice and guidance online on how to raise a fitness to practise concern with them and the types of concerns they can investigate.

20. The NMC and the General Medical Council ('**GMC**'), as regulatory bodies published joint guidance on 29 June 2015 titled 'Openness and honesty when things go wrong: The professional duty of candour'. The RCN website links to this guidance.

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.

Signed: **PD** _____

Dated: _____ 03 July 2024 _____