Written evidence from John L Green[1] (PHS 17)

Public Administration and Constitutional Affairs Committee
Parliamentary and Health Service Ombudsman Scrutiny 2019-20 inquiry

EXECUTIVE SUMMARY

'AS IS' - THE PRESENT NHS COMPLAINTS SYSTEM IS BROKEN AND DOES NOT RESULT IN THE EFFECTIVE QUALITY IMPROVEMENT OF SERVICES TO MEET CUSTOMER NEED AND SATISFACTION

There is no credible NHS complaints system that can bring about serious organisation and managerial reform necessary to achieve health and social care quality improvement.

Customers (service users and their carers) are grossly underrepresented and powerless.

PHSO quality investigations are not system wide and do not focus on healthcare performance outcome, as determined by customers (service users and carers). They only focus on maladministration and existing service standards failures.

'SHOULD BE' - THE COMPLAINTS SYSTEM AND NHS QUALITY MANAGEMENT NEEDS RADICAL REFORM

Customer feedback and complaints should be seen as the driving force of the of the quality management and improvement process with the maxim that the customer is always right.

The NHS organisation and management paradigm needs reforming and quality management should be developed to world-class standards, radically to reduce all complaints and improve cost effectiveness of services – the PHSO should be recommending/demanding this.

A new complaints process involving progressive single line management accountability should be introduced throughout the NHS

The existing NHS complaints and quality improvement system is a National disgrace. It militates against the NHS ever achieving cost effective world-class quality management standards of service to reduce human misery and denies many customers their basic human rights to obtain health and social care service standards to meet their individual needs and satisfaction.

[1] John L Green, Former Southern Health Foundation Trust (SHFT) Governor and Carer

PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO) COMPLAINTS STANDARD FRAMEWORK – PUBLIC CONSULTATION 2020

Observations by John L Green (JG)
Former Southern Health Foundation Trust (SHFT) Governor and Carer

'AS IS' - THE PRESENT NHS COMPLAINTS SYSTEM IS BROKEN AND DOES NOT RESULT IN THE EFFECTIVE QUALITY IMPROVEMENT OF SERVICES TO MEET CUSTOMER NEED AND SATISFACTION

1. **There is no credible NHS complaints system that can bring about serious organisation and managerial reform necessary to achieve health and social care quality improvement.**

The Blair Labour Government in 2004 removed Community Health Councils (CHC), which were independent review panels. These panels dealt with and monitored customer complaints at provider trust board level. This 'Yes Minister', 'Basil Fawlty' action was taken by Government deliberately to shut down complaints to avoid 'embarrassing the Minister'.

The CHCs were replaced by the Health Commissioner and later the PHSO, both of which were overwhelmed by complaints. Later in 2009 the Care Quality Commission (CQC) took over much of the task of the Health Commissioner in monitoring healthcare standards in the hope of assuring the public. However, due to the CQC using seriously outdated quality management inspection methods and with no powers to investigate individual cases and monitor outcome performance, the latter of which is vital to the process of identifying root causes of failures and monitoring quality improvement, it has noticeably failed to give this assurance.

The removal of the Community Health Councils, the CQCs creation with no powers to investigate individual cases and the right of provider trust CEOs to offload serious complaints to the PHSO, which has limited powers and ability to investigate individual cases and no powers to bring about change in NHS services, equates to a denial machine. A complaints system that by design denies accountability for failure and denies basic customer human rights to demand services to meet their needs. **Even worse, it has noticeably militated against NHS managers, consultants/doctors and healthcare staff readily accepting accountability for quality failure and actively taking responsibility for quality improvement. The current proposal by the NHS England to introduce 'Patient Safety Specialists' into trusts will further emphasise to managers and healthcare staff that quality improvement is the responsibility of someone else.**

The above changes to the NHS organisational paradigm and complaints system and the failure of the NHS to operate a single line management accountability system of management proposed by Roy Griffiths in 1983 and required under the Health and Safety at Work Act 1974 has effectively destroyed any possibility of the NHS ever achieving world-class standards of service using world-class quality management methods.

2. **Customers (service users and their carers) are grossly underrepresented and powerless.**

In normal business circumstances customers pay directly for products and services and are in a very powerful position to obtain the standards of services they want and influence change, either by refusing to pay or taking their business elsewhere. As a result, businesses seeking their custom for income automatically defer to the customer and in very competitive times the very best organisations are highly motivated in seeking immediate customer feedback to improve their services to obtain the highest level of customer satisfaction in a cost effective manner. Any business failing to do this does so at their peril. Thus, the motivation for all managers and staff who wish to achieve the highest standards of products/services is to welcome customer feedback, particularly from the most critical/discerning of customers (because if you can satisfy them you will likely satisfy everybody) and do their upmost to satisfy them by meeting the performance standards they demand.

With regard to the NHS, the very opposite exists and the opposite result occurs. Payment is paid mostly in advance through taxation, no monies are refunded for poor services received and no credible complaints/customer feedback system exists. On the basis of no taxation without representation, MPs represent the public. But in practice customers/the public are not well represented by MPs for reason that most MPs are understandably much too busy to deal effectively with individual cases. If you add to this the fact the NHS uses seriously ineffective and outdated quality improvement methods and that no one manager at any level of the NHS appears to be accountable for its failures and for bringing about urgent improvement to services, it is no surprise that customers who complain are mostly ignored and are rendered powerless to influence change. Nor is it any surprise that little quality improvement is made as a result.

Having said the above, competition between companies in the private sector might well be a motivator to many businesses to make quality improvements to maximise sales and profits**.** But their achievement of world-class quality standards is not obtained by competition - quite often fierce competition results in lower standards. **High quality is obtained by adopting customer feedback driven world-class quality management methods and organisation and management culture. These methods can be equally adopted by the publicly owned NHS and all organisations commissioned to provide NHS services should be required in their commissioning contract to meet world-class standards of quality management .**

3. PHSO quality investigations are not system wide and do not focus on healthcare performance outcome, as determined by customers (service users and carers). They only focus on maladministration and existing service standards failures.

All quality improvement investigations should be system wide. Some health and social care failings may well occur within the front-line organisations providing the services i.e. provider NHS trusts and local government e.g.:

- Lack of involvement of family carers in decision-making and implementation of care plans.
- Failures of healthcare and social care staff to follow procedures and inadequate records and communication systems.

However, many failings which impact upon the outcomes for service users and their carers, which should also be included in the investigation, occur at other levels within the NHS i.e. NHSI/NHSE and CCGs, CQC, Government and Department of Health e.g.:

- Inadequate commissioning of services e.g. mental health services – failure due to lack of homecare, respite, rehabilitation care and clinical psychology services etc. **NHSE and CCGs**
- No outcome performance measurement, regarding cost effectiveness and efficacy of treatments (particularly psychiatric) and health improvement, as determined by customers (service users and carers) i.e. not clinicians. **Provider Trusts, NHSI/NHSE and CCGs**
- A seriously dysfunctional NHS organisation and management system, poorly trained management and lack of single line management accountability. No one person is in overall charge at any level of the NHS, resulting in no disciplined teamwork to implement agreed actions in a timely manner – vital to a safety critical industry - and no individual accountability for ensuring cost effective services meet customer need and satisfaction. **NHSI/NHSE, Government and Department of Health**
- Reliance upon a CQC quality inspection system to improve quality, which is 3 levels below world-class quality management standards. **Government and Department of Health**
- Lack of financial resources allocated or available to meet local customer need or overall demand. **Government (overall funding), NHSE and CCGs (allocation of funding)**
- Mental Health and Mental Capacity Acts regarding powers given to psychiatrists and the impact of the Acts upon the human rights of service users and carers. **Government**

A good example of system-wide failings is what we are all now observing with coronavirus deaths. If investigated, it will likely be found that no patient and healthcare staff deaths, that were not due to low immunity levels or underlying health problems, will have occurred as a result of lack of caring and hard work by front line NHS staff, who are risking their own lives. Almost certainly, the deaths will have occurred as a result of NHS organisation and management failures e.g. lack of appropriate personal protection equipment (PPE) and healthcare equipment, lack of training in the use of the equipment, lack of numbers of nurses and doctors, lack of appropriate facilities, lack of testing services, lack of appropriate medications, lack of accurate public health data, lack of healthcare outcome performance data and almost certainly dysfunctional/ incompetent management due to lack of an accountable single line management system etc. In other words, the failings will be system-wide with the cause of failures being found at every level of the NHS and its suppliers.

All failed health and social care outcomes experienced by customers equate to a faulty product of a faulty NHS production line (organisation and management top to bottom) using faulty/flawed healthcare methods for which managers at every level of the NHS should be in some way be accountable, but evidently are not.

'SHOULD BE' - THE COMPLAINTS SYSTEM AND NHS QUALITY MANAGEMENT NEEDS RADICAL REFORM

4. Customer feedback and complaints should be seen as the driving force of the of the quality management and improvement process with the maxim that the customer is always right.

The quality guru Edward Deming stated: "Good quality means a predictable degree of uniformity and dependability with a quality standard suited to the customer". Joseph Juran

defined good quality as "fitness for intended use". The definition basically says that quality is "meeting or exceeding customer expectations"; thereby the customer is always right.

The complaints standards framework should therefore be a collaborative customer driven quality improvement investigation process with the objective being to satisfy the customer. It is not a question of how well a complaint is dealt with or a process of settling an argument between two parties, which is the approach taken by most public investigations/ inquiries and the PHSO. The customer must always be seen as right. **E.g. If I am not happy with a meal I have ordered in a restaurant, I don't expect to argue with the chef. Also, if my car isn't functioning properly after a service, I don't expect to argue with the maintenance engineer.**

What is important for closure for all complainants or those giving adverse feedback is that the outcome from the investigation into a complaint/feedback establishes:

1. The deep rooted cause(s) of the failure in service standard,
2. Who is accountable for the failure in service standard to meet customer expectations and therefore responsible for rectifying the failure.
3. That urgent organisational, management and healthcare method reforms/quality improvement actions are implemented by those who are accountable swiftly to prevent the failure from ever happening again, either to the service user and family/friend carers or other customers.

The above is nothing more than a fundamental requirement for quality improvement. More importantly, management accountability for this process is legal requirement of the Health and Safety at Work Act 1974, which the NHS (a safety critical industry) should comply with, but appears not to. The same outcome should therefore be desired by the Secretary of State for Health and Social Care, Department of Health and all managers and staff in the NHS who seek to achieve world-class quality standards of service to satisfy the customer.

5. The NHS organisation and management paradigm needs reforming and quality management should be developed to world-class standards, radically to reduce all complaints and improve cost effectiveness of services – the PHSO should be recommending/demanding this.

At present £83 billion (at the rate of £2 billion plus pa) is set aside to pay for legal costs and compensation resulting from litigation taken against the NHS for quality failure. For a fraction of this cost the implementation of a single line management system and world-class quality management methods throughout the NHS would radically reduce complaints, litigation costs, raise standards and thereby most importantly reduce human misery.

To achieve world-class quality management standards will require the following initial reforms to NHS organisation and management systems:

- **All health and social care supplier/provider trust front-line units/teams/GPs commissioned to provide services should be required in commissioning contracts to monitor their healthcare outcome performance.** This should be with regard to efficacy of healthcare methods, cost effectiveness and customer (service user and carers) satisfaction in respect of their service experience and, most importantly, their health

improvement as a result of receiving services. Customer satisfaction survey information, along with receipt of complaints, to be formally obtained at the point of service delivery and by way of follow up individual health surveys carried out in the weeks/months after treatment or ongoing in the event of continuing care. Necessarily feedback system surveys should be carried out by independent organisations, e.g. Feefo and Trustpilot, as many of the public are afraid to complain about healthcare services received, particularly when receiving ongoing care.

- **Front-line teams/units should also, with their middle and senior managers be required in commissioning contracts to develop annual rolling improvement plans** to implement quality improvements radically to reduce complaints, better satisfy customers and improve the cost effectiveness of services.
- **At any stage of the of the complaints process the customer (service user or their nearest relative/friend carer) must be able to request of the NHSE CCG, as the agent of the public in commissioning services, that they receive advocacy support and be able to obtain alternative clinician opinions of their choosing.** Nearest relatives who oppose mental health sectioning should not be dismissed.
- **Single line management be introduced throughout the NHS whereby at all levels of the organisation all the staff (doctors, nurses, care support staff, technicians and admin staff etc) involved in the team/unit delivering the service report to one overall supervisor/manager for overall individual and teamworking direction and their performance.** At present, no single line management system operates in the NHS at any level. At the top level 2 (previously 3) separate organisations NHSE/NHSI and the CQC are involved in dealing with different aspects of management and at the service provider level nobody is in overall charge of a service unit/team with doctors, nurses and administrators reporting separately to senior professionals.
- **Healthcare line managers in charge of service units/teams at every level should be healthcare professionals (consultants, senior doctors/nurses etc)** who, as in all other industries, are supported by non-healthcare professionals e.g. general managers/ administrators, finance, HR, legal etc. either directly under their control or by way of a sub contracted service.
- **Complex cross functional services provided to individuals (e.g. in older people's healthcare and mental health services) should be overseen by the appropriate level of line manager.** E.g. where several health and social care professionals in different units are involved they should be managed by an area/divisional manager with regard to the teamwork and performance of the collective services provided to those individuals
- **Within NHS provider trusts, managers, clinicians and healthcare staff should be progressively accountable to those managers above them for their outcome performance. Non-executive board directors, who are responsible for reviewing the performance of the trust CEO, should be ultimately accountable for the performance of the trust. In turn non-executive board directors should be accountable to NHS England and its CCGs, which commissions the services on behalf of the public using taxpayers' money.**
- **All board members, managers and staff at all levels of the NHS should be fully trained in systems thinking, quality management and continuous quality improvement tools and techniques.**

6. A new complaints process involving progressive single line management accountability should be introduced throughout the NHS

On the basis that all managers at every level of the NHS could in some way be accountable for the cause of quality failure, all customers who seek to complain should be able to follow a progressive single line NHS hierarchical management procedure, prior to any involvement of the PHSO. Such a progressive system is applied in every other industry and is required under the Health and Safety at Work Act 1974, which is there to protect both staff and the public receiving services. Under the Act organisations are required to establish single line management accountability at every level of the organisation for both identifying near misses and safety failure and for taking immediate action to improve safety.

Complaint Stages 'Should Be':

1st stage: **Front line staff and ward/service unit manager** providing the service.

2ndstage: **Divisional/area manager and necessarily trust CEO.**

3rd stage: **Non-executive directors (in NHS provider trusts)** - as was the case with Community Health Councils.

4th stage **NHSE CCG.** NHSE CCGs act as an agent to the customer and commission services on behalf of the public/customer using taxpayer's money. They and the NHSE must therefore be ultimately accountable for commissioning services to meet local needs and the quality of those services to the satisfaction of the customer (service user and their carer(s)). *N.B. JG experienced this in 2015/16 with East & North East Hertfordshire CCG. The CCG accepted full responsibility for JG's complaint about his brother's psychiatric care provided by the Hertfordshire Partnership Foundation Trust (HPFT). It conducted an investigation into his brother's case involving the Royal College of Psychiatrists. It also collaborated with JG and represented the family in its commissioning role discussions with HPFT to obtain a better healthcare outcome. This involved DG being transferred to Hampshire to be near the family to enable the implementation of a very successful psycho-social back to the community care plan. In contrast, Southern Health Foundation Trust upon DG's transfer initially ignored the agreement made with the family after DG was transferred and the West Hampshire CCG refused to become involved.*

5th stage **NHSE/NHSI/CQC, which should be one organisation – arguably the Department of Health.** Commissioning, healthcare quality improvement and effective management are entwined and cannot be dealt with effectively by separate organisations.

6th stage **PHSO, which should be able to call upon the Health Safety Investigation Branch (HSIB) to assist with system wide investigations**. Both organisations should be financed totally independently from Government with expertise and powers to question NHS organisation and management competence, quality management methods and most importantly the efficacy of healthcare methods. They should also have the power to insist upon NHS organisation and management reforms and quality improvements being implemented at any appropriate level of the NHS, as is the case with the AAIB with the aircraft industry.

As the NHS is a safety critical industry the above process from stage 1 to stage 5 should be treated as urgent and appropriately completed within days/a few weeks with regard to complaints relating to serious incidents of health decline, injury and unexpected

deaths. *N.B. The present standard of urgency in the NHS at all levels is reflected by the fact that an urgent meeting typically takes 3 weeks to arrange.*

PHSO PUBLIC CONSULTATION MICROSOFT TEAMS MEETING 24TH AUGUST 2020

The meeting to obtain views on the PHSO complaints standards framework, attended by 8 customer complainants of Southern Health Foundation Trust, was conducted by Andrew Medlock, Assistant Director Strategy and Partnerships, PHSO. A summary of the above Observations by JG were presented to the PHSO at the consultation meeting and a shorter written version later forwarded to the PHSO.

Question by JG at the end of the meeting

How many complaints does the PHSO receive, how many are investigated and how many are upheld?

Answer: 30,895 complaints were received by the PHSO in 2019/20. Only 5,658 (18.3%) met the PHSO criteria for assessment. 1,122 (3.6%) were investigated with 650 (2.1%) upheld.

Conclusion by JG

The above figures leaves circa 29,000 frustrated serious complainants in 2019/20. Each year approximately 30,000 complaints are side-lined to the PHSO by NHS providers of services. The likely number of serious complainants, including those which do not formally complain to PHSO, is 10 times this figure i.e. well over ¼ million pa. In 2016/17 PHSO assessments totalled 8,119 compared to 5.658 in 2109/20, a drop of 31%!

The Kings Fund 'Public Satisfaction with the NHS and Social Care' Report 2019 shows a 25% rate of dissatisfaction with the NHS, which contrasts starkly with the constant eulogising by the media and members of Parliament. Any other organisation with that level of customer dissatisfaction would be out of business.
https://www.kingsfund.org.uk/publications/public-satisfaction-nhs-social-care-2019#key-findings

The Nuffield Trust 'How Good is the NHS' Report 2018, shows how poorly the NHS performs in terms of health outcomes in all serious diseases other than diabetes and kidney disease, when compared with other high income countries:
https://www.nuffieldtrust.org.uk/files/2018-06/the-nhs-at-70-how-good-is-the-nhs.pdf

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