

Gillian Martin MSP
The Convener
Health, Social Care and Sport Committee
Scottish Parliament

By email: hscs.committee@parliament.scot

7 March 2023

Dear Gillian,

Patient Safety Commissioner Bill

Thank you for the opportunity to provide oral evidence to the Health, Social Care and Sport Committee on 21 February as part of your ongoing scrutiny of the Patient Safety Commissioner for Scotland Bill. I hope the Committee found my contributions helpful. I am writing to expand on some of the points I raised.

Firstly, I want to reinforce our support for the Bill and its creation of a Patient Safety Commissioner for Scotland. As I outlined at the session, we see this role as an important mechanism to strengthen and amplify the voices of people who use services in Scotland and ensure they are listened to, heard, and action is taken for their safety. If successful, we look forward to working with the future Commissioner to help drive systemic improvements in safety collaboratively, in a way that is best for the public and everyone involved in health and care in Scotland.

A system-wide perspective

We believe a key strength of the Patient Safety Commissioner role will be its ability to take a system-wide view in Scotland to identify wider safety issues and drive improvement for the benefit of people using services. While this is outlined in the Policy Memorandum, it is not explicitly listed as a function in the Bill. It is important the role has a clear remit to avoid any duplication. We recommend adding '*developing a system-wide view of the healthcare system in Scotland to identify, review and report on patient safety trends and issues*' as a third general function in the Bill.

Social Care

We recommend the Patient Safety Commissioner considers patient safety concerns from people using services across the care system in Scotland, in addition to the healthcare system. We regulate professionals across both health and care and as I outlined at the session, people experience care holistically. By focussing on healthcare services only, we risk missing the voices and experiences of people using care services. We recommend the Bill avoids stating anything that prevents the Commissioner from considering patient safety concerns, trends and issues occurring across care services.

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Working together through effective two-way information sharing

By working collaboratively with other organisations, the Commissioner will be able to add value to the patient safety system in Scotland and avoid duplicating the work of existing organisations. Effective two-way information sharing with professional regulators is essential to promoting patient safety by ensuring: 1) we assist the Commissioner as part of its information gathering activities and formal investigations, 2) we make best use of learning from the Commissioner's activities, and 3) the Commissioner can refer any professional concerns to us for prompt regulatory action.

We are concerned that the current wording of Section 15 of the Bill could unintentionally hinder the free flow of appropriate information between us and the Commissioner and miss the opportunity to improve system coordination and simplification. To ensure effective two-way information sharing, we recommend the addition of '*professional regulators*' to the persons list at Section 15(2)(d).

This would ensure that, if the NMC or any other regulatory representative, was to become a member of the Advisory Panel, we would be clear in our ability to carry out authorised two-way information sharing with the Commissioner; and share information received from the Commissioner with third parties to fulfil our statutory regulatory function.

Requirement to provide information

We support the role's power to require information in a formal investigation and will do all we can to help make investigations run smoothly. We note that under section 13 (6) the Bill states that 'information' refers to unrecorded information. We welcome clarity on the definition of 'unrecorded information' and will follow up with the Bill team on this point.

Separately, we agree that it is not appropriate for the Commissioner to investigate individual cases as existing bodies within the system address these, including professional regulators. It is for the Commissioner to decide which patient safety concerns it formally investigates based on trends and issues identified as part of its information gathering activities, which could include individual cases. We look forward to clarity on how the Commissioner will identify which areas are of priority and thresholds for investigations.

Thank you again for the opportunity to provide our thoughts to the Committee. If you have any questions on the areas I have raised or would like to meet to discuss any matter further, please contact our public affairs team by email on Public.Affairs@nmc-uk.org.

Yours sincerely,



Matthew McClelland
Executive Director of Strategy and Insight