

# A joint response from the Association of Directors of Public Health and the Faculty of Public Health to the Department of Health's consultation on *The NHS Constitution*



## About the Association of Directors of Public Health (ADPH)

The Association of Directors of Public Health (ADPH) is the representative body for directors of public health (DPH) in the UK. It seeks to improve and protect the health of the population through DPH development, sharing good practice, and policy and advocacy programmes. [www.adph.org.uk](http://www.adph.org.uk)



## About the Faculty of Public Health (FPH)

FPH is the leading professional body for public health specialists in the UK. It aims to promote and protect the health of the population, and improve health services by maintaining professional and educational standards, advocating on key public health issues, and providing practical information and guidance for public health professionals. [www.fph.org.uk](http://www.fph.org.uk)

## General comments

Thank you for the opportunity to comment on the draft NHS Constitution. ADPH and FPH welcome the bringing together into a single document the range of basic principles, rights and responsibilities that underpin the way the NHS works for patients, staff and the wider public.

However, we feel the title 'Constitution' is somewhat misleading in that the document does not focus on governance per se. Instead, it is a declaratory statement and we would have preferred a title such as 'The Declaration of NHS Principles, Rights and Responsibilities'. We suggest adding a strap-line to this effect, thus: 'The NHS Constitution: a declaration of principles, rights and responsibilities.' We feel this would more accurately describe the purpose of the document and make it more meaningful to the public, patients, carers and staff.

There is a need to clarify whether the NHS Constitution will apply equally to the whole of the NHS in the UK or whether there is a need for different approaches to be taken within devolved administrations of Wales, Scotland, and Northern Ireland. We would, however, support the principle of a UK-wide NHS Constitution (mindful of devolved administrations) to ensure that all NHS patients and staff across the UK have equal rights.

Clarification is also sought on how every person in the UK will access the NHS Constitution, to ensure that they are aware of their rights as either existing or possible future patients of the NHS and how they should seek support and redress if the constitution is not adhered to.

## 1. The case for the NHS Constitution

We believe that the case for the Constitution is well made. We particularly welcome the statement that the same values will be applied by all providers of NHS healthcare and welcome the development of minimum quality and access standards.

However, we believe that the NHS Constitution should make it clear to the general public that **local variations in health and healthcare provision are necessary to reflect the differing needs of the populations served. The raison d'être for PCTs is to "assess the health needs of the local populations and then commission (and provide) services in order to meet those needs and reduce health inequalities". Nevertheless, where someone lives should not restrict or preclude them from receiving the treatment and care they need (the so called 'post-code lottery')**.

## 2. The source and status of the NHS Constitution

We believe that early drafts of the NHS Constitution would have benefited from public health advice and input. We hope that the comments contained in this consultation response will help to strengthen the final document by providing a population perspective. In an organisation as diverse and complex as the NHS there will inevitably be occasions when consideration of a population perspective leads to conclusions and investment decisions which may be at variance with individual needs/demands.

We recommend that the final version of the NHS Constitution should make it clear that **the NHS exists to promote and protect the health and well-being of communities and populations in addition to meeting the health and healthcare needs of individuals, and that there may be times when decisions that are taken for the benefit of the population as a whole may override individual benefits.**

*Consultation question 1:* We agree that all NHS bodies and NHS funded organisations should be obliged by law to take account of the NHS Constitution.

*Consultation question 2:* We agree that it would be sensible to refresh the NHS Constitution every ten years.

*Consultation question 3:* We agree that it would be sensible to refresh the handbook to the NHS Constitution every three years.

## 3. The purpose and principles of the NHS

We believe that the statement of purpose and a set of principles of the NHS should be amended to take account of the following comments:

Regarding the purpose, we would propose the following amended statement:

The NHS belongs to the people. It is there to improve our health **and wellbeing**, support us to keep mentally and physically well, prevent ill-health, help us get better when we are ill and, when we cannot fully recover, help us stay as well as we can. It works at the limits of science – bringing the highest levels of human knowledge and skill to save lives **and protect** and improve health. It touches our lives at times of basic human need, when care and compassion are what matter most.

We believe that the purpose could be further strengthened by including an explicit statement: **“the purpose of the NHS encompasses the positive promotion of good physical and mental health”**.

We would also strongly recommend inclusion of an additional statement: **“that the NHS seeks to promote and protect the health and wellbeing of communities and populations in addition to supporting the health and healthcare needs of individuals.”**

We support the sixth principle which states that the NHS is committed to providing better value for taxpayers' money and the most effective and fair use of finite resources. However, we believe that there are circumstances where due consideration of the health of the public means that no individual or community should be excluded from health and healthcare because of their residency status. We therefore recommend that the text should be amended to read: **“Public funds for health and healthcare will be devoted to the benefit of people that the NHS serves whatever their status or background.”**

## 4. Patients and the public

### *Access to healthcare services:*

- The statement that individuals have the right to access local services and will not be refused access on unreasonable grounds raises the question of **what might constitute reasonable grounds**. This should be clarified in the final NHS Constitution and accompanying handbook.
- The right to seek treatment elsewhere in Europe if an individual faces undue delay in receiving NHS treatment similarly requires clarification on **what would constitute an undue delay**. Guidance will be needed in the final NHS Constitution and handbook.
- The right not to be unlawfully discriminated against should be extended to **include age discrimination**.

### *Quality of care and the environment:*

- We recommend inclusion of an additional paragraph stating that: **“the NHS will strive to provide a supportive environment which promotes the best possible physical and mental health”**.

### *Nationally approved treatments, drugs and programmes:*

- We recommend inclusion of an additional paragraph stating that: **“the NHS will strive to make decisions which have the greatest benefit to the communities that it serves”**. This would help to provide a population perspective to the NHS Constitution.

### *Respect, consent and confidentiality:*

- We support the rights and pledges as stated.

### *Informed choice:*

- We recommend inclusion of an additional pledge that: **“the NHS will strive to provide you with information and support which can help you to remain healthy”**.

### *Involvement in your healthcare and in the NHS:*

- We suggest that the pledge that the NHS will “strive to work in partnership” is rather vague and may be seen as meaningless. In its current form, this statement adds little to the document and should either be removed or should be expanded to indicate the principles of partnership working which should be applied.

### *Complaint and redress:*

- It is important that the options for redress are clearly set out for patients and the public should they feel unsatisfied with any aspect of their treatment.

### *Patients’ and the public’s responsibilities:*

- We would like to see the statement: “you should provide relevant and accurate information about our health, condition and status” amended to: “you should, **as far as you are able**, provide relevant and accurate information...”.

### *Additional comments:*

- Paragraph 4.32: we welcome the statement that patients and the public have a responsibility to look after their own health.
- Paragraph 4.33: we support the decision to rule out linking access to NHS services with sanctions. However, the patient handbook should explain that **lifestyle choices can render some treatments ineffective or less effective and so may have an impact on the care and services which patients are offered**. The NHS should make clear that it will offer all support available to help people make healthier lifestyle choices, to ensure their treatment is as effective as possible.

*Consultation question 5:* We assume that the NHS Constitution and accompanying handbook will be available in different languages, large print and Braille and other accessible forms. However, information on who people should contact should they wish to discuss any aspect of the NHS

Constitution and how it may affect them should also be included, eg. should people contact their GP? Clarification is also sought on how people will access the documents – will a copy be sent to every household?

*Consultation question 6:* We believe it is useful to bring together all the key public and patients' rights and pledges.

*Consultation question 7:* We agree with the new legal right to choice about NHS care.

*Consultation question 8:* We believe the list of pledges is appropriate.

*Consultation question 9:* We believe the responsibilities and expectations of the patients and the public are appropriate.

*Consultation question 10:* We believe the mechanisms of the complaint and redress of clear and sufficient.

## 5. Staff

### *Pledges to NHS staff*

*Consultation question 11:* We recommend inclusion of an additional pledge: **“that the NHS will strive to provide a working environment which promotes the physical and mental health and wellbeing of all NHS staff”**.

### *NHS expectations of staff*

*Consultation question 12:* We recommend inclusion of an additional expectation: **“that staff should strive to act as role models in the promotion and protection of health and well-being for individuals and communities that they serve”**.

## 6. Accountability

We agree with the statement that further structural change of the NHS should be avoided.

We would like to see the statement: “you have a duty to protect the confidentiality of personal information that you hold” be amended to: “...information that you hold **or have access to**”.

*Consultation question 13:* We would support the proposal to publish a statement of accountability and we would like to see this providing clarity on the decision-making responsibility for different parts of the NHS.

## 7. NHS Values

The values which have been identified are appropriate but we believe that they do not fully reflect **the value of social solidarity and pooling of risk which was central to the development of the NHS** in 1948.

*Consultation question 14:* We agree values should be included in the consultation. We recommend inclusion of **social solidarity** (or words to that effect) as an additional value, which the Constitution itself, by establishing a set of values, principles, rights, responsibilities and pledges, will help to bring about.

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We hope that you find these comments helpful and look forward to the next steps.



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