

Level playing field for nursing and midwifery regulation is long overdue

The Francis Report has set a significant challenge for all involved in healthcare delivery. Responding to the entirety of its recommendations is a task that may take many months or even years. However, there are some anomalies in the current arrangements for regulating healthcare professionals that are simply indefensible – both for the sake of patients and for staff – and that need to be sorted without delay.

I have repeatedly raised one such example over recent months in the House of Commons. This is the Government's plans to delay – possibly for a number of years – introducing powers for the Nursing and Midwifery Council to be able to review, reopen or revise its own disciplinary decisions.

I am delighted to have received this week a letter from Health Secretary, Jeremy Hunt, telling me the Government has agreed with the arguments I have been making and will be fast-tracking these changes to regulation.

I first called Parliament's attention to the problem as long ago as December 2012 as a constituency case involving the local family of Vinny Duggan. At that time, I had been involved with the parents in the quest for information for only 10 months, whereas Mr and Mrs Duggan had been battling since Vinny was born nearly three years ago. Vinny was born on 20 August 2010 at Doncaster Royal Infirmary, but shortly thereafter was diagnosed as having a very serious life-threatening heart and lung condition. He was given open heart and major lung surgery and spent five months in Leeds hospital, six weeks of that in intensive care and 10 weeks in the high-dependency unit.

The internal investigation at Doncaster hospital afterwards concluded that there were “no real concerns” about the standard of care in Vinny's case, despite the fact that there were many chances to notice that he was unwell, to do the tests that could have been required and to listen to Mr and Mrs Duggan's concerns. There remain important discrepancies between the evidence of the parents and that of some of the staff and the hospital in the investigation.

It took two years and a new chief executive before Mr and Mrs Duggan received a welcome letter from the new acting chief executive, Mike Pinkerton, who ended by saying: “The care that Vinny received fell below the standard you have a right to expect from us and I do sincerely apologise.”

Like so many other parents, Mr and Mrs Duggan had principally wanted an explanation—not retribution or compensation. However, like many parents, they were driven down the route of trying to get answers through the courts, and that is what they are having to do. They also rightly turned to the professional body, the Nursing and Midwifery Council, which is responsible for regulating Britain's 670,000 nurses and midwives. Mrs Duggan submitted a complaint in September 2011, which was turned down in January 2012. She challenged it, which caused the council to look again at the argument that there was no case to answer, and the internal review concluded that the case should be referred back to the investigating committee for reconsideration.

This threw up the ridiculous anomaly that, unlike other professional regulatory bodies, the Nursing and Midwifery Council does not have the legal powers it needs to review its own decisions. The chief executive, Jackie Smith, was good enough to meet me last Summer and to agree to commission independent legal advice on Vinny's case and on the NMC's restrictions. That independent legal

advice concluded that the NMC has no statutory power to review, re-open or reverse a disciplinary decision. The QC went on to point out "Typically, other professional regulators have wider review powers, granted explicitly by secondary legislation."

A similar power is available to the General Medical Council for doctors, the General Optical Council and the General Pharmaceutical Council. The delay in introducing such a power for the NMC leaves nurses and midwives without a level playing field regarding their own professional body, unable to clear their name in cases where they have been subject to allegations, and patients without common protection across the medical professions.

In Section 60 of the Health Act 1999, the previous Government introduced powers to amend professional regulation without the need for further primary legislation. This could simply and easily be done without delay by Regulations.

When I challenged the Prime Minister in the Commons on this matter during his Commons statement on 7th February on the Francis Report, he only said that the Law Commission would look at and advise on how to deal with the current situation with the Nursing and Midwifery Council. This could lead to years of delay before a solution was put in place.

I believe this delay is unacceptable and that urgent action is needed now to improve public confidence and provide a level playing field for nurses and midwives with other medical professions. I raised this matter with the Prime Minister, the House of Commons Health Select Committee in their recent Report on the NMC has endorsed my concerns.

Thankfully, it appears the Health Secretary has now agreed with my arguments as well. Now we need to get these changes into law as quickly as possible.