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COUNCIL

Francis Inquiry

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Purpose

1. This paper analyses the recommendations of the Francis Inquiry and the Government response, and makes recommendations as to how the GOC should respond.

Executive Summary

2. Following serious failings at Mid-Staffordshire NHS Foundation Trust (Mid-Staffs), the Government asked Sir Robert Francis QC to chair a public inquiry. The report of the Francis Inquiry was published on 6 February 2013 and the Government published its initial response on 28 March 2013. The report catalogues many incidents of poor care, some of which are graphic and upsetting in their detail.

3. It also analyses the reasons for the failings and includes a large number of recommendations that affect many areas of the NHS. A number of the recommendations have ramifications for the GOC.

4. The Inquiry report and Government response both make a large number of recommendations, some of which specifically relate to professional regulation. A number of recommendations made for the General Medical Council (GMC) and/or Nursing and Midwifery Council (NMC) are especially relevant and it is likely that Government and/or the Professional Standards Authority (PSA) could expect all regulators to consider adopting them.

5. The Executive has reviewed the Francis Inquiry and the Government response, and picked out issues which are relevant to the GOC (Annex 2). These are:
   5.1 **Considering how the organisation handles complaints** including speeding up the FTP process, how we share information, taking a proactive approach, supporting witnesses effectively;

5.2 **Openness, candour and raising concerns** including considering whether our rules and guidance need strengthening in respect of raising concerns and whether we need to show more leadership in encouraging such a culture in the professions;

5.3 **Considering our standards and education** including ensuring sufficient emphasis on care, compassion and working with vulnerable groups;

5.4 **Considering how we regulate businesses and students** including consideration of what constitutes effective supervision and the working environment for our registrants;

5.5 **Considering how we might raise our profile;** and

5.6 **Considering whether we need to strengthen the connection** between the Executive and lay Council members and the frontline of the profession.

6. There are a number of areas where we are already taking action and there are some issues that we need to consider further. Annex 1 analyses the implications for the GOC in more detail. Annex 2 lists issues to consider along with the vehicles we might use to address them.

7. We recommend that Council:

7.1 consider and decide whether we have correctly identified the issues that are relevant to the GOC;

7.2 consider and decide which of these issues we should address as a matter of priority; and

7.3 notes that we would need to carry out further analysis before making any changes in response to the issues raised.

8. After hearing Council's thoughts and priorities on the report, the Executive will continue to develop our thinking in light of Council's view and the developing Government agenda.

Strategic Objective

9. The Francis Inquiry raises a number of important issues for the GOC and other healthcare regulators. The recommendations in this paper are designed to ensure we continue protecting the public in a targeted, effective and proportionate way.

10. Most of the recommendations in this paper tie into projects in the business plan, including our standards review, our review of business regulation our next strategic plan and the UK Law Commissions' review of professional regulators' legislation.

11. However, some of the suggestions from the report will have to be tackled outside of the existing projects in the business plan. It is therefore important that

we consider our own financial and operational capacity to address them within a realistic, sensible and proportionate timeframe.

Background

12. This paper summarises:
    12.1 the issues raised by the Francis Inquiry;
    12.2 the issues raised by the Government's response;
    12.3 how these issues specifically relate to our work; and
    12.4 proposed actions for the GOC.

13. In February 2013, Council received a summary of the key findings of the Francis Inquiry and a link to the full report. Hard copies of the report are available on request. This paper now expands on the summary sent to members in February to include the Government's response and possible issues for the GOC to consider.

Analysis

14. The full report (Annex 1) highlights five key themes of the Inquiry that are of particular importance us and the other healthcare regulators. They relate to:
    14.1 **the importance of more proactive regulation**; regulators using data to spot trends, sharing information with each other and not just waiting for complaints to come in.
    14.2 **culture in the health service**; the importance of creating a culture in the health service with an emphasis on care and compassion, and where healthcare professionals feel able and supported to raise concerns.
    14.3 **standards**; the development of fundamental standards for the NHS and the importance of healthcare professionals remaining fit to practise by keeping up-to-date with standards.
    14.4 **complaints mechanisms**; ensuring that patients are able to make a complaint, are supported through the complaints process, and that the process is significantly faster and more efficient.
    14.5 **education**; placing a greater emphasis on care, compassion and working with vulnerable people. and;
    14.6 **nine other issues** that Francis raised.

15. Annex 2 sets out 14 issues for the GOC to consider in light of the Francis Inquiry. Each would need more careful analysis and consideration, and to be applied proportionately in light of the optical sector's risk profile when compared to medicine and nursing.

16. This paper is not suggesting that all the potential regulatory changes listed in the recommendations should definitely be implemented in full or at all; however,

all of the issues raised should be considered in light of the Francis Inquiry as to whether they are strategically important and appropriate for the GOC.

17. If implemented, some of the recommendations would have both financial and human resource implications for the GOC.

18. Some of the recommendations would also require legislative change. The UK Law Commissions review provides us with an opportunity to do this.

19. All healthcare regulators are looking carefully at the Inquiry. The Government response specifically notes that it expects other professional regulators to adopt the same approach to culture in the NHS that it expects from the GMC. A number of regulators have published responses and most (including the GOC) were represented at an Associate Parliamentary Health Group (APHG) meeting in Parliament. The regulators' PPE Learning Circle has discussed the report, and we can expect the PSA to ask us what we have learned from the report in next year's performance review.

20. There are plenty of areas where we have already addressed some of Francis' concerns – for example enhanced CET, with its focus on interactive learning and peer review; our new FTP Rules that are on the way to being implanted; and our guidance for witnesses in FTP hearings.

21. We also have ready-made opportunities to further implement recommendations. The UK Law Commissions review gives us the opportunity to change our legislation, and our reviews of business regulation and standards this year will both present opportunities too.

22. Our response to the Inquiry must be proportionate; our professions have a lower risk profile than those directly implicated by Mid-Staffs, and what is required of doctors and nurses may not be proportionate for our registrants.

23. The response must also be proportionate to our own resources; both financial and human. While many suggestions from this paper tie into projects in the business plan, others will have to be considered standalone and will therefore have resource implications.

24. Nonetheless, we must regard recommendations for the GMC and NMC in particular as being seen as best practice. Even if we do not adopt proposals to the extent that they might do, we may still need or want to adopt some of the principles – as, for example, we saw enhanced CET as a proportionate response to *Trust, Assurance and Safety.* #

Devolved Nations

25. The recommendations if implemented would mainly apply on a UK-wide level. Some however, especially those that require working with stakeholders, may require different ways of working in the different countries of the UK. This is because of the different way the NHS is structured in the devolved nations, for example the abolition of Primary Care Trusts (PCTs) only affects England.

26. Any extra guidance or information we make available to the public may have to be published bilingually in accordance with the Welsh Language Scheme.

Communications

27. Because of the wide remit of the Inquiry and the recommendations, there could be significant communications challenges. These include consulting stakeholders on possible changes to policies, publishing new guidance and information accessibly and raising the GOC's overall profile.

28. We must also consider how we communicate the findings of the Inquiry, and our response, to registrants. As this paper notes, although the Inquiry relates largely to hospitals, it will still have significant effects for optics which our registrants and stakeholders have to be aware of.

Risks

29. Failure to implement key recommendations of the Inquiry could carry significant regulatory risks. It is likely that the PSA will expect us to learn lessons from the Inquiry and make appropriate changes to the way we regulate.

Recommendations

30. The Executive has reviewed the Francis Inquiry and the Government response, and picked out issues which are relevant to the GOC (Annex 2). These are:
    - 30.1 **Considering how the organisation handles complaints** including speeding up the FTP process, how we share information, taking a proactive approach, supporting witnesses effectively;
    - 30.2 **Openness, candour and raising concerns** including considering whether our rules and guidance need strengthening in respect of raising concerns and whether we need to show more leadership in encouraging such a culture in the professions;
    - 30.3 **Considering our standards and education** including ensuring sufficient emphasis on care, compassion and working with vulnerable groups;
    - 30.4 **Considering how we regulate businesses and students** including consideration of what constitutes effective supervision and the working environment for our registrants;

30.5 **Considering how we might raise our profile;** and

30.6 **Considering whether we need to strengthen the connection** between staff and lay Council members and the frontline of the profession.

31. We recommend that Council:

31.1 consider and decide whether we have correctly identified the issues that are relevant to the GOC;

31.2 consider and decide which of these issues we should address as a matter of priority; and

31.3 note that we would need to carry out further analysis before making any changes in response to the issues raised.

Timeline for future work

32. Some of the vehicles for addressing the above concerns already have timelines in place – for example the Law Commissions review and the projects in our business plan. Others will require separate work and the timeline will depend on available resources and the priority given by Council.

33. Based on the discussion and Council's view, the Executive will review the recommendations in light of Council's thoughts and the developing Government agenda. This will also form part of our consideration of the next Strategic Plan.

34. We will also need to consider the Government's full response, which is due in the autumn.

Attachments

Annex 1 – Francis Inquiry – implications for the General Optical Council
Annex 2 – table of recommendations for issues which the GOC should address

Annex 1
Francis Inquiry – implications for the General Optical Council

Background

1. Following serious failings at Mid-Staffordshire NHS Foundation Trust (Mid-Staffs), the Government asked Sir Robert Francis QC to chair a public inquiry into the failings. The report of the Francis Inquiry was published on 6 February 2013 and the Government published its initial response on 28 March 2013. The report catalogues many incidents of poor care, some of which are graphic and upsetting in their detail.

2. It also analyses the reasons for the failings and includes a large number of recommendations that affect many areas of the NHS. A number of the recommendations have ramifications for the GOC, especially those concerned with professional regulation.

3. This report summarises:
   3.1 the issues raised by the Francis Inquiry;
   3.2 the issues raised by the Government's response;
   3.3 how these issues specifically relate to our work; and
   3.4 proposed actions for the GOC

4. Although optometrists and dispensing opticians were not directly implicated in the report, there are still many lessons that we can learn from it. In particular, the report and the Government's response make numerous recommendations for the General Medical Council (GMC) and Nursing and Midwifery Council (NMC). We and the other healthcare regulators ought to consider these recommendations as good practice, albeit applying them proportionately bearing in mind the respective risk profiles of our professions.

5. With the Inquiry's strong focus on the importance of whistleblowing, it is also worth noting that GOC registrants will often be in a position to report substandard care by other professionals. GOC registrants work in hospitals and also in residential care homes, where the Winterbourne View scandal also saw serious abuse of vulnerable patients.

6. Therefore, the impact for our registrants will be different depending on where they work. Despite optics' lower risk profile, our registrants could still be in a position to prevent abuses on the scale of Mid-Staffs depending on where they work – and even going beyond healthcare as they may work in schools, prisons and other environments where a satisfactory duty of care is expected from staff and institutions.

7. The full report of the Francis Inquiry can be found online at http://www.midstaffspublicinquiry.com/report

8. The Government response is called *Patients First and Foremost.* This can be found at https://www.gov.uk/government/publications/government-initial-response-to-the-mid-staffs-report. The Government will issue a more detailed response in the autumn.

9. Page references in this annex refer to the Francis Inquiry report, unless they are marked 'PF&F', in which case they refer to *Patients First and Foremost.*

Key themes from Francis Inquiry and Government response

1. Systemic problems, a need to be more proactive and a need to work more closely with stakeholder bodies

Francis Inquiry:

10. The report talks about the need for regulators to look at the circumstances in which individual complaints arise so they can spot patterns which indicate a systemic problem.

11. Regulators should then be proactive in investigating concerns, rather than waiting to receive complaints (p108-9; p1019-20; p1030; p1037; p1041; p1044-5; p1047). Regulators should track trends and commission reviews and investigations where appropriate. They must track systemic concerns as well as individual ones (p1047). The report notes that regulators may need greater resources to achieve these recommendations (p1046).

12. The report notes that although there were clear breaches of the NMC's code that should have led to FTP investigation, the NMC could not be expected to act without receiving information, and that it was not set up to be proactive (p1040-1).

13. It says: "The Professional Standards Authority (PSA)…together with the regulators under its supervision, should seek to devise procedures for dealing consistently and in the public interest with cases arising out of the same event or series of events but involving professionals regulated by more than one body. While it would require new regulations, consideration should be given to the possibility of moving towards a common independent tribunal to determine fitness to practise issues and sanctions across the healthcare professional field." (p1045-6) The PSA have already said they agree with this and are now considering how to implement it.

14. This recommendation goes against the Government's decision in the recent NHS arm's length bodies review to close such an independent tribunal (the Office of the Health Professions Adjudicator (OHPA)).

15. The report also notes the need for organisations to share more data with each other. It notes a problem that some organisations are in principle willing to share data, but don't always know what information is relevant to who (p1026).

16. Poor communication between bodies is a theme of the report. Francis notes when discussing the NMC's relationship with the CQC and Healthcare Commission, *"Once again, this emphasises the importance of all regulatory organisations having, not only high level memoranda of understanding, but a mutual system for allowing each other to know of the actions of the others, and to understand their importance and significance for their own responsibilities."* (p1040).

17. There are many mentions throughout the report of various oversight bodies not communicating or working closely together, and therefore failing to spot systemic problems. Francis noted that organisations operated in silos, relying on others to keep them informed (p64-5). Francis feels that organisations need a mutual system of sharing information, rather than just high level memorandums of understanding (p1040). He feels "all regulators should exchange details of those members found to be substandard and look at where they are working to achieve cross correlation" (p1046). Francis also calls to systemise information sharing between the GMC and the Royal Colleges (p109).

Government response:

18. The Government response notes that there will be "a review of best practice on complaints" (p18). It contains a section on faster and proactive professional regulation, specifically stating that the principles of Francis' recommendations for the GMC and NMC apply to all regulators (PF&F, p62-3). These principles are:
    - 18.1 sharing information more proactively with other regulators;
    - 18.2 acting quickly on concerns; and
    - 18.3 putting greater emphasis on protecting patients and the public.

19. The response notes a lot of positive progress that the GMC and NMC have already made. NMC work noted in the response includes new standards for pre-registration nurses, an FTP helpline for directors of nursing, employers' roadshows, a new case management tool, keeping suspended nurses visible on the register for five years and starting work on revalidation (PF&F, p62).

20. The Health Select Committee has also expressed a desire for the GMC and NMC to become more 'responsive' to professional malpractice cases.

GOC environment:

21. Our work around risk research for enhanced CET looked at systemic problems, finding isolated practice an area of relatively high risk. We have now taken action in relation to isolated practice with the need for more interactive CET.

22. We will be expected to co-operate more with other healthcare regulators as noted above; we will need to work with them and the PSA to devise how this will work in practice. The Government response notes that 'the GMC and NMC, together with other professional regulators, will consider these recommendations further before issuing a fuller response' (PF&F, p62).

23. On a related note, but pertaining to fraud rather than patient care, the executive recently met NHS Protect (formerly the Counter Fraud Service), who are keen to set up regular roundtables with professional regulators to discuss trends and issues related to their remit.

24. We signed up to OHPA before it was closed in the Government's arm's length bodies review. However, due to only ourselves and the GMC signing up to OHPA, it had been set to cost us far more than originally anticipated. We therefore ultimately supported the Government's decision to close OHPA in a consultation response (http://www.optical.org/goc/filemanager/root/site_assets/consultation_documents/goc_response_to_department_of_health_consultation_on_adjudication_of_fitness_to_practise.pdf).

25. An independent tribunal will need support from other regulators if it is not to end up being costly. The GMC noted in their response that they are "interested in exploring opportunities to work with other regulators [to involve them in the Medical Practitioners Tribunal Service (MPTS)] and will discuss this with the PSA and DH".

2. Culture in the health service – compassion, candour and raising concerns

Francis Inquiry:

26. The report has a strong theme about the importance of raising concerns, and of having a culture in the NHS where practitioners feel able to report malpractice. Many staff in Mid-Staffs were reported to have 'kept their heads down' (p44).

27. The report quotes Niall Dickson's view that often concerns are best raised locally in the first instance, rather than with the regulator (p1014-6). The NMC

believe that their guidance, *Raising and Escalating Concerns,* has encouraged more whistleblowers to come forward (p1039).

28. Both the Francis Inquiry and the Government's response talk extensively about the importance of compassion in healthcare.

29. The report calls for openness, transparency and candour throughout the health system (p75). It wants this to be enshrined in the NHS Constitution (p104).

30. It calls for a legal duty of candour – informing patients when mistakes lead to death or serious injury (p103; p1472-80). This is something that patient groups such as Action Against Medical Accidents (AvMA) have been calling for for some time. Francis calls for obstruction of this duty to be a criminal offence (p104). Francis also calls for a ban on "gagging clauses" (p104).

Government response:

31. The response says "the key is that boards and leaders need to create environments where staff feel supported to cope with the day to day risks and challenges of health care work" (PF&F, p26).

32. The Government response talks a lot about the value of 'supporting staff to care' (PF&F, p31) – however, while a hospital has big management structures through which to achieve this, in optometry there is often more isolated practice.

33. The Government response also talks about creating time to care – noting that 'busy leaders and busy staff need to be freed up to build cultures of care for patients' (PF&F, p34).

34. NHS England have published an action plan to improve compassion in nursing practice: http://www.england.nhs.uk/nursingvision/actions/#plans

35. Because of the importance of good leadership in ensuring good care, the Government is also introducing a barring system for board-level executives in the NHS (PF&F, p64).

36. Stephen Dorrell, Chair of the Health Select Committee, feels that healthcare professionals who do not report concerns should be putting their own registration at risk. He noted in an APHG meeting that while "you don't inspect quality into anything", appropriate structures must be in place for healthcare professionals to take responsibility.

37. The Government response calls for a revolution in transparency (PF&F, p44). It will introduce a statutory duty of candour on providers to inform people if they believe treatment or care has caused death or serious injury. However, before

introducing criminal sanctions as suggested by Francis they want to ensure it will not 'unintentionally create a culture of fear' (PF&F, p46).

38. The Government has also said it will work with professional regulators to 'examine what more can be done to encourage professionals to be candid with their patients' (PF&F p46). It has not yet come to a decision on Francis' recommendation of a lack of candour being a criminal offence. It has said that 'the era of gagging NHS staff…must come to an end' (PF&F, p47).

GOC environment:

39. In 2010-11, there were 462,607 domiciliary sight tests carried out in the UK – showing that our registrants undertake significant work with patients who are likely to be vulnerable (statistic taken from *Optics at a Glance* 2011).

40. Our Code of Conduct places a duty on registrants to act to protect patients if they have information that another healthcare professional may not be able to practise safely and effectively. The Code does stress that concerns should often be raised locally in the first instance - a change from the version originally consulted on which had expected all such concerns to come straight to us. Consultation feedback is available here: http://www.optical.org/goc/filemanager/root/site_assets/policies_procedures_and_protocols/codes_of_conduct_consultation_feedback.pdf

41. Unlike some other regulators such as the GMC and NMC, we do not have a specific guidance document about raising concerns. Our guidance is mainly covered in footnotes in the Code of Conduct. We may need to provide our registrants with more clarity on what to report to who, both within optics and in other sectors, and consider whether they have enough support to raise concerns.

42. We should also consider whether our core competencies say enough about candour and whistleblowing, and therefore whether students are receiving enough education in the importance of raising concerns.

43. There is an argument that more leadership around compassion and standards should be coming from us and the professional bodies. Tim Walker of the General Osteopathic Council (GOsC) made this point in an APHG meeting, on the grounds that many of their registrants work in isolated or independent practice, without the large management structure of a hospital.

44. The GMC noted in their response to Francis that "effective regulation is not only about our powers, but also the influence we are able to exercise on the professionals we regulate" – ie regulators doing more to create the best possible culture in the professions they regulate and wider health service. GMC

chief executive Niall Dickson made the same point in the APHG. This is something we should consider when revising our standards this year and potentially also in our reviews of business and student regulation.

45. The Government response notes that they will work with professional regulators to examine what more can be done to encourage professionals to be candid at all times (PF&F, p46).

3. Standards in the health service and revalidation

Francis Inquiry:

46. Standards runs strongly through the report as a theme. Francis sees a consistent culture as being the best way of ensuring that patients are treated in line with fundamental standards (p1400). He notes that values can be drawn from many sources, including professional regulators, and they don't produce an overall culture shared throughout healthcare. While not suggesting that professions' individual codes be replaced, he notes the challenge of achieving an overall NHS culture which all staff can be proud of.

47. The report differentiates between essential standards, and desirable enhanced standards (p1429). It suggests that failure to meet the latter should be a matter for performance management by commissioners, rather than a matter for the regulator (p87).

48. It also recommends a code of standards for senior healthcare managers (p108), with Monitor issuing licences after a 'fit and proper person test'. As an alternative after trialling this, it suggests the possibility of an independent professional regulator for healthcare managers, subject to an assessment of the proportionality (p1591-2).

49. The report is positive about peer review, noting that many staff in the trust had become isolated from fellow practitioners. It also notes that reflective practice is important in maintaining and improving performance (p1016; p1433-4).

50. It is also highly positive about revalidation, encouraging the NMC to adopt a system similar to the GMC's (p1041; p1047). It also notes the value of appraisals as a key tool to enforce standards and reinforce a caring culture (p78).

51. The report recommends zero tolerance of a service incapable of meeting fundamental standards, and that it should be a criminal offence for death or serious injury to result from a breach of regulatory requirements (p88-9).

Government response:

52. In the Government's response, it noted that it will publish a revised NHS constitution with an increased emphasis on common values (PF&F, p26). This will be subject to consultation later this year.

53. The Government accepts Francis' recommendation to develop new fundamental standards for the NHS. They will be subject to consultation, and will focus on five key areas: being caring, safe, responsive, effective and well led (PF&F, p56).

54. The Government agrees with Francis' recommendation for the NMC to introduce revalidation, stating that the DH and Chief Nursing Officer will work with them to do so. It notes that it should be 'appropriate and proportionate to the profession' however, hinting against Francis' recommendation that it be similar to the GMC's scheme (PF&F, p71).

55. In the interim, they plan to strengthen appraisals. It also notes that the Royal College of Nursing (RCN) has an important role in developing nursing practice, and wants a clearer distinction between its two roles as professional body and trade union (PF&F, p71).

56. NMC chief executive Jackie Smith stated at the APHG that she is keen that their system of revalidation should be proportionate. The GMC have had revalidation in place since last year.

GOC environment:

57. We have now introduced enhanced CET to satisfy the requirements for continued fitness to practise. Francis' keenness about peer review is encouraging, as are recent British Medical Association (BMA) comments about the value of avoiding isolated practice. We considered using appraisal as an element of revalidation, but when researching this found that it would be inappropriate as appraisals in optics have too many limitations to be used for this purpose.

58. As part of our own upcoming standards review, we may wish to consider including more of the themes from the Francis Inquiry around compassion and care.

4. Complaints and the length and complexity of the fitness to practise (FTP) process

Francis Inquiry:

59. The trust's chief executive had raised concerns that lengthy GMC disciplinary proceedings could prevent them from dismissing practitioners for poor performance as one process could prejudice the other. However, Dickson refuted this. Francis nonetheless recommends that both employment disciplinary proceedings and FTP should be able to proceed in tandem (p1022-3).

60. The report mentions that the length and complexity of FTP proceedings could act as a deterrent to complaints (p1042; p1045). David Cameron also alluded to this when he questioned in the House of Commons why neither the GMC nor NMC had yet struck anyone off over Mid-Staffs.

61. Francis also notes the importance of supporting complainants through the FTP process, fully supporting them and treating them as a partner (p1045).

62. The report found that patients and families were often reluctant to make complaints about poor care, for a variety of reasons. Healthcare organisations need to do more to break down these barriers. Key factors include not wanting to look ungrateful, wanting to put distress behind them, uncertainty as to whether there is true cause for complaint, and fear of an adverse reaction from those criticised (p278).

63. It suggests that there should be multiple, easily understood gateways for patients to complain; litigation not to be a barrier to investigation; that patient feedback that is less formal than a complaint must be taken just as seriously as a formal complaint; and it notes the importance of complaints being raised quickly at a local level (p279).

64. The report notes the importance of support for witnesses, especially vulnerable witnesses (p279-80).

65. The report backs the principle of Interim Orders, including for systems regulators, noting that: *"The healthcare regulator must be free to require or recommend immediate protective steps where there is reasonable cause to suspect a breach of fundamental standards, even if it has yet to reach a concluded view or acquire all the evidence. The test should be whether it has reasonable grounds in the public interest to make the interim requirement or recommendation."* (p89)

Government response:

66. The Government response notes that all professional regulators are 'hampered by an outdated legislative framework that is too slow and reactive in tackling poor care by individual professionals'. It plans to feed into the Law Commissions that they should legislate to allow for faster and more proactive action from regulators (PF&F, p19). David Cameron made the same point himself in Parliament shortly after the publication of the Inquiry.

67. In discussing the Law Commissions review, the response specifically notes that it will "consider legislation around the investigation and adjudication of FTP cases" (PF&F, p63).

68. The DH has established an independent review to consider complaint handling in the wake of Francis' recommendations. This will report in the summer. It will focus on how complainants and whistleblowers are supported (PF&F, p52).

GOC environment:

69. Clearly, whatever new structure the UK Law Commissions devise for FTP legislation will affect us. In the meantime, we are already taking a number of steps to try to speed up the FTP process. Thus far, we have significantly cut the amount of time taken on average to process Interim Orders and we continue to take other steps which will make a positive difference to the overall average time.

70. We recently produced new guidance for witnesses and conducted a review of our communication with those involved in the FTP process, consulting our Stakeholder Reference Groups (SRGs).

5. Education and training

Francis Inquiry:

71. The report calls for the GMC to require lay/patient involvement in their visits to training providers (p101) and to actively seek feedback from students and tutors (p102).

72. The report believes that the NMC should consider working towards a single qualification examination (p105).

73. Regarding oversight of training, it states that: *"While requirements for remedial action must be proportionate, training should not be allowed to take place in an environment where patient safety is not being adequately protected. Perceived difficult consequences should never be permitted to hinder steps required to protect patients, and the oversight of medical training should not condone or support unacceptable practice."* (p59)

74. The report calls for an increased emphasis on caring and compassion in healthcare, but particularly nursing, recruitment, education and training (p76; p1360; p1514-5 and throughout chapter 23). Francis believes the NMC should consider an aptitude test for this (p105).

Government response:

75. Health Education England will introduce values-based recruitment for all students entering NHS-funded clinical education programmes (PF&F, p70).

76. Starting as a pilot scheme, nurses will have to spend a year working as healthcare assistants before they can start training as nurses (PF&F, p67). The Royal College of Nursing (RCN) has been critical of this, with their chief executive making the point that nursing students spend a large amount of time in hospitals rather than the classroom anyway.

GOC environment:

77. Our core competencies already include 'communication' and 'professional conduct', both of which have elements related to compassion. Under the enhanced CET scheme, registrants must cover both of these competency areas at least once in each CET cycle. Nonetheless, we may need to satisfy ourselves that our training goes far enough in these areas.

Other issues raised by the Inquiry

6. Regulation of healthcare assistants

Francis Inquiry:

78. The report calls for statutory regulation of healthcare support workers; this has been much debated recently, although the Government has so far been more inclined to have a voluntary or negative register. Marc Seale, chief executive of the Health and Care Professions Council (HCPC), supported this in the APHG meeting. Francis suggests that the NMC prepare a code of conduct and education and training standards for assistants (p77; p107; p1527-38). The report suggests that the DH puts interim measures in place in the meantime (p108).

Government response:

79. *PF&F* notes that 'while the idea of statutory, compulsory regulation may seem attractive, regulation is no substitution for a culture of compassion, safe delegation and effective supervision' (PF&F, p72). Instead, the Government wants the Chief Inspector of Hospitals to ensure that all hospitals are training healthcare assistants to the same standard. An independent review by Camilla Cavendish will look at their future training and support needs.

GOC environment:

80. This serves as a further reminder that the Government is minded not to extend statutory regulation without clear evidence of a patient safety benefit. We may wish to satisfy ourselves that our own rules and guidance around what constitutes effectives supervision are suitable.

7. Patients' voice

Francis Inquiry:

81. The report is critical of the trust failing to listen to patients' voices (p44) – this acts as another reminder that it is important for us to involve patients in our work. It is critical of Patient and Public Involvement Forums and then Local Involvement Networks (LINks), which replaced Community Health Councils. These are themselves set to now be replaced by local HealthWatch groups (p46-7).

Government response:

82. The Government response mentions the importance of patients' voices being heard (PF&F, p49-50). It goes on to explain the role of local HealthWatch groups in replacing LINks (PF&F, p53-4).

83. HealthWatch England (HWE) is now chaired by Anna Bradley – her recent interview in *The Guardian* saw her discuss how many patients now see themselves as consumers, bringing more empowerment and seeing them exercise their right to seek information and make complaints.

GOC environment:

84. We remain keen to involve patients and the public in our work, although regular system shake-ups are not helpful. We have engaged constructively with LINk members in the past, for example on our Codes of Conduct and revalidation; LINks have now been abolished though.

85. It would be useful to have intelligence from HWE about the information that local HealthWatch groups gather. The cross-regulators' PPE Learning Circle is hoping to hear soon from HWE about how regulators can engage with local HealthWatch groups; we hope that these groups can be as effective as LINks in feeding into our work. Our SRGs and Consultation Framework both remain in place.

8. Language testing

Francis Inquiry:

86. The report notes that, while this is not an issue especially relevant to Mid-Staffs, the inability of regulators to language test European Economic Area (EEA) registrants is a matter of 'serious concern'. Francis feels all doctors should have English language proficiency. (p1216).

Government response:

87. Not specifically mentioned in response to Mid-Staffs but Government, the Health Select Committee and our fellow regulators have all consistently given a strong message that they want regulators to be able to language test EEA applicants.

GOC environment:

88. Our fellow regulators affected by automatic recognition of qualifications are currently seeking the power to language test. This does not directly affect us, as the professions we regulate only require mutual recognition of qualifications, allowing us the power to language test under our communication competencies.

9. Public awareness

Francis Inquiry:

89. The report notes that too often the public are not aware of the GMC and NMC or their role, and that the NMC in particular needs to undertake more work to promote its functions to the public (p1044; p1047).

Government response:

90. The Government response notes that the NMC have already embarked on a programme of work to consider how they can raise their public profile (PF&F, p62). Jackie Smith acknowledged at the APHG that the NMC can do more in this area.

GOC environment:

91. We have considered before how and to what degree we should promote ourselves to the public, generally being favour of making ourselves available *at point of need.* To that end, we have tried to raise our profile with stakeholder organisations and other groups such as Citizens Advice and Trading Standards, but we have limited resources to promote ourselves to the public at large.

92. We can increase our efforts to encourage registrants to promote their own registration to patients using our registration toolkit and the Communications team have started looking at how search engine optimisation can be used to help direct more patients and the public to the relevant parts of our website at

point of need. How we raise our public profile is worth considering as part of our next strategic plan.

10. System shake-ups

Francis Inquiry:

93. Concerning the CQC, Francis hints that the organisation had a lot to do in a very short space of time which made it harder for it to fulfil its basic functions (p57-8). The report suggests a merger of Monitor and the CQC's regulatory functions (p91) but also notes that system change can be destabilising and counterproductive (p62; p68; p1340-3).

Government response:

94. The Government are now appointing a Chief Inspector of Hospitals. Its response supports maintaining the CQC and Monitor as separate organisations with their own duties (PF&F, p57).

GOC environment:

95. No new bodies or mergers have yet been suggested from this report or the Government's response that will affect us in a direct way. We and our stakeholders are still getting used to the changes from the Health and Social Care Act, especially around commissioning arrangements.

11 Inspections

Francis Inquiry:

96. The report was keen on the value of physical inspections rather than self-reporting. It states that, "*Inspection should remain the central method for monitoring compliance with fundamental standards. A specialist cadre of hospital inspectors should be established, and consideration needs to be given to collaborative inspections with other agencies and a greater exploitation of peer review techniques.*" (p69).

Government response:

97. The Government response is favourable to the value of inspectors. It is appointing a new Chief Inspector of Hospitals, and will consult on whether to appoint a Chief Inspector of Primary Care (PF&F, p41).

98. Local HealthWatch groups will be able to 'enter and view' local health and care services and provide recommendations or escalate concerns (PF&F, p53).

GOC environment:

99. Although some of our registrants work in hospitals, a potential Chief Inspector of Primary Care would clearly be more likely to affect us than the Chief Inspector

of Hospitals. With the abolition of Primary Care Trusts (PCTs), it is not currently clear who, if at all, will pick up their function of inspecting our registrants' premises. We are currently exploring how this will work in the context of our business regulation review. While dental surgeries are now inspected by the Care Quality Commission (CQC) and pharmacies by the General Pharmaceutical Council (GPhC), there is nothing similar in place for optical practices because of the lower risk.

12 Conditions for staff

Francis Inquiry:

100. The Inquiry noted that inadequate staffing levels and poor leadership, recruitment and training were responsible for some of the poor care provided in Mid-Staffs (p45, p1498-1505).

Government response:

101. The Government response notes that organisations 'need to have a clear aspiration to create the right conditions to enable their staff to deliver high quality, effective and compassionate care' – noting that organisations that treat their staff well deliver better patient outcomes (PF&F, p67). It comes out against having minimum staff numbers or ratios.

GOC environment:

102. The report focuses on staffing levels in hospitals. Nonetheless, some of the themes around having adequate staffing levels and support for staff could be usefully considered in light of our standards review as potential changes to our Codes of Conduct for business registrants.

13 Care for older people

Francis Inquiry:

103. Francis recommended a separate register of nurses for older people for nurses able to lead an older person's ward or unit – supported by specialist training (p1521).

Government response:

104. The Government came out against this proposal, instead wanting to strengthen the focus on care for older and frail people throughout education and training for all registrants (PF&F, p74).

GOC environment:

105. We could consider our own education and training – to satisfy ourselves that there is enough in our communication or professional conduct competencies

around working with older people, or indeed other groups that may be vulnerable such as children or those who are disabled.

14 Connecting to frontline staff

Francis Inquiry:

106. Francis noted there is evidence showing that DH officials were sometimes too remote from the services they oversee. He believes that DH staff should reconnect and improve their cultural understanding of the NHS by listening to patients (p63-4).

Government response:

107. The Government accepted this, and is now 'developing structured activities to help DH staff reconnect to frontline staff and service users'. Within four years, all DH civil servants will have gained 'meaningful experience of the frontline' (p77).

GOC environment:

108. The executive attend a good number of optical exhibitions and events; we have spoken to hundreds of registrants already this year at Optrafair and other events.

109. However, we may wish to consider whether there would be a benefit from more staff members, and possibly lay members of Council and committees, visiting practices and speaking to registrants and/or patients to be more connected to the front line and further their overall knowledge of the profession. This could form part of induction and/or training.

Conclusion and next steps

110. The Francis Inquiry makes a total of 290 recommendations, covering many areas of the NHS. As this report demonstrates, a number of them can have ramifications for us.

111. There are plenty of areas where we are already addressing some of Francis' concerns – for example enhanced CET, with its focus on interactive learning and peer review; our new FTP Rules that are on the way to being implanted; and our guidance for witnesses in FTP hearings.

112. We also have ready-made opportunities to further implement recommendations. The UK Law Commissions review gives us the opportunity to change our legislation, and our reviews of business regulation and standards this year will both present opportunities too.

113. Our response to the Inquiry, which we should make public, must be proportionate; our professions have a lower risk profile than those directly implicated by Mid-Staffs, and what is required of doctors and nurses may not be proportionate for our registrants.

114. The response must also be proportionate to our own resources; both financial and human. While many suggestions from this paper tie into projects in the business plan, others will have to be considered standalone and will therefore have resource implications.

115. Nonetheless, we must regard recommendations for the GMC and NMC in particular as being seen as best practice. Even if we don't adopt proposals as fully as they might do, we may still need or want to adopt some of the principles – as, for example, we saw enhanced CET as a proportionate response to *Trust, Assurance and Safety.*

116. Council and the Executive should decide which recommendations from Francis and the Government they believe we should implement and which should be the highest priority.

ANNEX 2 C21(13) – TABLE OF ISSUES FOR GOC TO CONSIDER

Issue and possible action	Vehicle(s) for GOC to implement	Department(s) responsible	Resource implications
1. Work with the PSA and other regulators to improve our information sharing around the complaints we receive. Consider how we may address FTP issues more proactively, for example by spotting trends that lead to complaints.	Engage with stakeholders to develop effective mechanisms. This relates to Francis' recommendation 235; the PSA has said in a public statement that they are considering how to implement this. We may get more powers in this area from the Law Commissions review.	FTP	Potentially high
2. Continue to engage with the UK Law Commissions over any changes to regulators' investigation, FTP and adjudication processes. This is especially relevant to our efforts to speed up the FTP process.	UK Law Commissions review	FTP, Policy	Low
3. Satisfy ourselves that the support and guidance we provide to complainants and witnesses through the FTP process needs to be strengthened.	This was reviewed relatively recently. If we feel it should be further strengthened in light of Francis, we could work with the Stakeholder Reference Groups (SRGs) on the project.	FTP, Communications	Low-medium
4. Consider our position on any potential successor to OHPA as an independent tribunal service for ours and other healthcare regulators' FTP hearings.	Law Commissions review; PSA could consider this in any future work on efficiency and effectiveness?	FTP, Policy	Hard to gauge without seeing the nature of such a scheme; potentially high but could potentially produce savings.

Issue and possible action	Vehicle(s) for GOC to implement	Department(s) responsible	Resource implications
5. Consider, through our standards review and potentially other means, whether we need to strengthen our existing rules, guidance, education and support in respect of registrants raising concerns.	This should be primarily addressed through the standards review. Our current guidance around raising concerns is in the Codes of Conduct.	Standards and Education	Medium
6. Consider whether, and if so how, we ought to show more leadership in respect of promoting an open and transparent culture among our professions and the wider health service.	This would be best considered as part of the next strategic plan.	Standards and Education, Policy, Communications	Medium
7. Satisfy ourselves in our forthcoming standards review that the Codes of Conduct and/or the core competencies place sufficient emphasis on care and compassion.	Standards review. The codes of conduct and competencies both already address these issues.	Standards and Education	Medium
8. Satisfy ourselves that our core competencies provide sufficient training in working with vulnerable groups such as older people, children or patients with disabilities.	Standards review; student regulation review. Our competencies already address this issue.	Standards and Education, Policy	Medium
9. Consider whether the working environment for registrants and other staff should form part of our reviews of business registration and/or standards (specifically the business code of conduct).	Standards review; business regulation review	Standards and Education, Policy	Medium

Issue and possible action	Vehicle(s) for GOC to implement	Department(s) responsible	Resource implications
10. Satisfy ourselves that our rules and/or guidance around what constitutes effective supervision are suitable as part of our reviews of standards, business regulation and student regulation.	Standards review; student regulation review; business regulation review. This is currently covered by College of Optometrists and ABDO guidance.	Standards and Education, Policy	Medium
11. Consider whether as part of our review of business regulation we can or ought to bar unfit lay people from being a director of a GOC-registered body corporate.	Business regulation review	Registration, FTP, Policy	Potentially high
12. Consider to what extent, and if so how, we ought to raise our public profile.	This would be best considered as part of our Strategic plan.	Communications	Open; dependent on aspirations
13. Consider the future of practice inspections in light of the abolition of PCTs, including how we might engage with our stakeholders.	Business regulation review, strategic plan	Registration, Policy	Potentially high
14. Consider whether we ought to take more steps to ensure that staff and lay Council and committee members are connected to front line of the profession.	Induction programmes for staff and Council members	HR, Governance	Medium