'Freedom to Speak Up': BAPIO Submission to Sir Robert Francis Enquiry

BAPIO: British Association of Physicians of Indian Origin (BAPIO) is a national voluntary organisation established in 1996. We are a membership organisation for the Doctors of the Indian sub-continent origin including India, Pakistan, Bangladesh, Sri Lanka and Nepal and are considered the 'voice' of doctors of BME group in the UK which consists of approximately 50,000 doctors.

We are providing this written submission based on our experience in supporting our members who have been involved in whistle blowing.

Introduction:

Within the NHS, the professionals, both the administrative workforce as well as the clinicians have been engaged in identifying 'good practices' and opportunities to improve the services for improving better outcomes for patients. Equally, we are committed to the need to maintain emphasis on preventing any self-inflicted loss of any resource for the NHS. We at BAPIO prefer the ethos – Zero Waste, Zero Harm.

In order to pursue this ethos, it is essential that staff is able to raise concerns and have open discussions. However the situation is far from satisfactory currently and leads to conflict between the employers and the clinicians – and the very process of raising (rightly) concerns often leads to victimisation and compromises patient safety. We believe that the current atmosphere has created and is sustaining a huge gap between the policies and practices to allow genuine concerns to surface. The system managed by professionals in management role, both the clinicians and the managers tends to trigger a defensive mechanism rather than learning lessons. Instead of identifying learning needs or weaknesses in performance of the individuals concerned, or identifying system failures, the response tends to be more towards ensuring compliance without adopting steps to implement changes.

We would say that it is clear that a large section of the professionals from the ethnic minority background are experiencing a culture of bullying and subtle trend of racial disadvantages. The morale amongst these doctors is low and fear of their own career safety often leads to tolerating injustices or behaving as a bystander when they see that policies and practices in their own work place are not conducive to excellent patient care or safety.

"Experiences that people or bodies have had"

At BAPIO, we have found that there are two distinct groups of doctors who approach us. The first consists of doctors who have raised concerns and have suffered retribution as a result. The second group consists of doctors who recognise patient safety concerns but are hesitant to raise them due to fear of retribution, despite being aware of the process to raise such concerns. There is now clear evidence that bullying and discrimination impacts patient safety and we will therefore not discuss this aspect in detail.

"Second victim phenomenon"

Most analyses of serious clinical incidents show multifaceted problems, with systems failure rather than just an individual professional contributing to patient harm. However, while systems are rarely reformed, individuals are left holding the can.

It is not just patients and their carers who suffer from such failures. There has been a growing recognition that healthcare workers are also often affected by medical errors as secondary victims, so much so that some have committed suicide. Our Chairman, Professor Madhok, and his team have just published their report into this latter issue – and which is available at http://m.hsj.co.uk/5073269.article

"Problems with the system they consider to be present"

A concern is normally raised when persistent mistakes/acts of negligence are committed and the local corrective mechanisms are either not picking it up/covering up or unable to act. It is a well-known fact in the NHS that raising concerns is one of the most difficult dilemmas facing a doctor. As the CQC chairman once said *'a mafia code of silence rules hospitals.'* What we see in the NHS is a culture of branding the person raising the concern as a trouble maker. This initially starts with a whisper campaign and most of them find themselves deliberately caught in violation of one or the other of innumerable trust policies. Investigation is then set up and most of the time, the outcome is predetermined, reducing the process to a sham. Once this happens, the individual is caught at a point of no return and left with a set of options neither of which improves patient safety. Most back out, taking a rap on their knuckles, some jump ship while a small minority end up embroiled in complex, long standing legal battles. Managers who have access to practically unlimited legal funds hire the best QCs, it is a patently unequal fight and most doctors prefer the path of least resistance.

Managers wield enormous power within disciplinary procedures and frequently use it to further their own agendas. Dissenting voices are silenced at the prospect of fighting a well-funded vindictive management. Even when certain managers are then proved to be at fault or having acted corruptly they are rarely punished. Most are 'let go' and are soon back to business in another trust.

The second group of doctors is in a slightly better position as they have not yet 'blown the whistle'. We at BAPIO are regularly providing advice to members both formally and informally. The formal route is through the MDS (Medical Defence Shield – www.mdsuk.org). Informal advice is provided through the BAPIO Patient Safety Forum. This is not restricted to BAPIO members. Doctors are given information about the official channels to approach with the issue, mentoring and support.

"Solutions that the individuals / bodies consider should be put in place"

1. Instituting a trained and independent rapid response team from outside the region to determine in a short period of time whether the incident is true whistle blowing or not (we may have to note that WB could include issues which cause harm to patients directly or indirectly like bullying/harassment/discrimination).

2. Consider limits on the corporate legal funds available to managers. Establish a legal fund corpus that may be used by whistle blowers if they are embroiled in vindictive legal action by their employers.

3. Establish mechanisms for regulation of managers in the NHS as many managers use trust disciplinary actions as a ruse to discriminate, bully and suppress discordant views and whistle blowing. BAPIO patient safety forum is exploring the idea of hosting a one a day conference in this regard.

4. Support (pastoral, legal and peer group) should be made available to healthcare workers while under investigation.

5. The aforementioned report on suicide makes a number of recommendations including setting up a confidential inquiry into suicides whilst under investigation.

Conclusion:

BAPIO hopes that the enquiry will set the canvas for a culture of open dialogue without fear of victimisation for whistle blowers, limit the improper and vindictive use of trust disciplinary actions for bullying and harassing them and ensure that managers are equally held to account when there are incidents of suppression and victimisation.

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