PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT COMMISSIONER FOR PATIENT SAFETY (APPOINTMENT AND OPERATION) (ENGLAND) REGULATIONS 2022

Monday 14 March 2022

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not later than

Friday 18 March 2022

The Committee consisted of the following Members:

Chair: Dr Rupa Huq

Begum, Apsana *(Poplar and Limehouse)* (Lab)
† Britcliffe, Sara *(Hyndburn)* (Con)
† Caulfield, Maria *(Parliamentary Under-Secretary of State for Health and Social Care)*
† Clark, Feryal *(Enfield North)* (Lab)
† Costa, Alberto *(South Leicestershire)* (Con)
Davies, Dr James *(Vale of Clwyd)* (Con)
† Double, Steve *(St Austell and Newquay)* (Con)
† Evans, Dr Luke *(Bosworth)* (Con)
† French, Mr Louie *(Old Bexley and Sidcup)* (Con)
† Greenwood, Lilian *(Nottingham South)* (Lab)
† Jones, Darren *(Bristol North West)* (Lab)
Keeley, Barbara *(Worsley and Eccles South)* (Lab)
† Knight, Sir Greg *(East Yorkshire)* (Con)
Ribeiro-Addy, Bell *(Streatham)* (Lab)
† Skidmore, Chris *(Kingswood)* (Con)
Stringer, Graham *(Blackley and Broughton)* (Lab)
Syms, Sir Robert *(Poole)* (Con)

Seb Newman, Christopher Watson, *Committee Clerks*

† attended the Committee

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[Dr Rupa Huq *in the Chair*]

Draft Commissioner for Patient Safety (Appointment and Operation) (England) Regulations 2022

4.30 pm

The Parliamentary Under-Secretary of State for Health and Social Care (Maria Caulfield): I beg to move,

That the Committee has considered the draft Commissioner for Patient Safety (Appointment and Operation) (England) Regulations 2022.

It is a pleasure to serve under your chairmanship, Dr Huq. Patient safety remains a top priority for the Government, and we continue to place enormous emphasis on making our NHS as safe as possible for patients. Although we have made good progress, we know that more work needs to be done. In July last year, the Government published their formal response to the recommendations in the independent medicines and medical devices safety review, setting out an ambitious programme for change. That included our acceptance of the recommendation to appoint a patient safety commissioner with a remit covering medicines and medical devices.

We are making good progress towards fulfilling that important commitment. We included provisions in the Medicines and Medical Devices Act 2021 to establish the commissioner and set out their core duties. We also held a public consultation between June and August last year on the details of the commissioner's appointment and operation, and in January we started the process to recruit the very first patient safety commissioner. The job advert closed on 1 February and we hope to make an appointment by the spring. This statutory instrument will allow the Government to make legislative provisions about the appointment and the operation of the role.

Our public consultation covered details such as term of office, reappointment arrangements and remuneration, and we are grateful to all those who took the time to engage with our proposals and share their views. I am pleased to report that each proposal was supported by more than half of those who responded, with 59% to 91% of respondents being in agreement. Having considered all the responses carefully, we have laid before the House a draft statutory instrument that will implement the proposals put forward in our consultation. The instrument will enable the patient safety commissioner to function effectively by providing a clear legislative framework within which they can operate. I am aware that some respondents were concerned that the appointment time would be too short a period for the commissioner to establish themselves; however, the draft regulations also allow for the commissioner to be reappointed for an additional three years, in effect giving them up to six years in office.

Sir Greg Knight (East Yorkshire) (Con): Will the Minister clarify that point? Paragraph 7.5 of the explanatory memorandum states:

"The Commissioner for Patient Safety will be eligible for reappointment".

Does that mean just one reappointment or multiple reappointments?

Maria Caulfield: At the moment, my understanding is that it is for an additional three years, and there is not room in the draft regulations to expand that further. I am happy to clarify that for my right hon. Friend, if he is happy with that explanation.

The draft regulations set out a range of other details relating to the operation of the patient safety commissioner. In summary, the commissioner will produce a business plan covering their key priority areas, receiving funding from the Government, keep proper accounts each financial year, receive remuneration, publish an annual report to be laid before Parliament, and have staff who may exercise any of the commissioner's functions so far as they have been authorised to do so by the commissioner.

The draft regulations also require the commissioner to appoint an advisory panel to provide advice and assistance to the commissioner. The Government believe that the patient's voice must be central to everything that the healthcare system does. The patient safety commissioner will play a vital role in promoting the safety of patients in relation to the safety of medicines and medical devices. We believe that the draft regulations provide a sensible set of arrangements that will enable the commissioner to function and operate effectively once appointed. As ever, I welcome the scrutiny of Parliament and Members' valuable contributions. I commend the draft regulations to the Committee.

4.34 pm

Feryal Clark (Enfield North) (Lab): It is a pleasure to serve under your chairmanship, Dr Huq. Although the Labour party welcomes the provision that the statutory instrument makes for a patient safety commissioner, and we will support it, we have a number of concerns. Keeping people safe should always be the first priority of any Government, and healthcare is no different. When people, often at their most vulnerable, put their trust in the hands of healthcare professionals, they rightly do so with the expectation that their safety will be of paramount concern. Sadly, on far too many occasions that has not been the case. Not only has patient safety been an afterthought, too often, where incidents have occurred patients have been made to jump through hoop after hoop in their fight for justice. Too many people are still having to take up that fight for justice, and it is for them we must speak out.

I know that there are many champions of this issue here and in the other place. I pay particular tribute to the passionate and determined work of Baroness Cumberlege. Her report has been a landmark in the fight to improve patient safety, and thanks to her vital work we have made the progress that brings us here today. I also praise the work of a number of campaign groups in this area that I have had the pleasure of meeting in recent months. Whether it be on sodium valproate, Primodos or surgical mesh, they have stood up on behalf of thousands who have suffered because patient safety has not been taken seriously enough. Their unwavering determination is truly admirable, and

I look forward to working with them as they continue their fight to ensure that patient safety is not treated as an afterthought.

Despite the fight of so many to improve patient safety, the Government continue to lag far behind where we can and must be. The Cumberlege review has given hope to thousands who have gone through decades of pain and suffering; however, it cannot remain as another review that sits gathering dust on the desks of Ministers. While we support the steps taken today, where is the progress on the remaining recommendations of the Cumberlege review? The Government cannot take a pick-and-mix approach to patient safety. Unless reform is viewed as a whole package, patients will not see the speed and breadth of progress that is urgently needed.

An independent patient safety commissioner will take steps to ensure that patient safety is a top priority and will act as a voice for all those who have suffered for far too long. It will be a crucial step in ensuring that the entire health care sector is responsive to the steps that need to be taken and listens properly to the voice of patients; however, there remain a number of questions for the Government to answer on the function of the role, and how it will deliver the change that we need. The role cannot simply be a token gesture to those campaigners who have given so much; it must be a fierce champion of patients, willing to speak truth to power.

A particular concern raised by Baroness Cumberlege is the tenure of the commissioner being three years, as the Minister and the right hon. Member for East Yorkshire mentioned, rather than five years as for similar roles such as the Children's Commissioner. As it is a new role, and we have to get an organisation up and running, I share the concerns that such a short period is setting the commissioner up to fail. I would be grateful if the Minister outlined how the decision on length of tenure was reached and what further provisions will be made to avoid a revolving door of commissioners. She mentioned an additional three years, but I would like to hear more about that.

We welcome the obligation on the commissioner to lay an annual report before each House of Parliament; however, the additional obligation for the commissioner to publish a business plan at the start of each year is not mentioned within the obligation to publish an annual report. What would be the purpose of the commissioner providing a business plan if they were not held accountable for its contents? Can the Minister therefore outline what accountability functions will exist to ensure that the commissioner delivers on the plans that they will set out? I would also like to hear what opportunities will be available for Parliament to scrutinise the contents of the report when published.

Lastly, I will focus on the provision for the advisory panel, which will

"provide the Commissioner with advice and assistance...and encourage good practice in involvement with patients."

The SI goes on to state:

"The advisory panel must consist of persons who…represent a broad range of interests which are relevant to the Commissioner's functions."

In this instance, the clue is in the name: the patient safety commissioner. For statutory patient representation not to be embedded within the advisory board is simply not good enough. It is the lack of patients' voices that has led to many of the scandals that we have seen, and the breakdown of trust for many.

For patients' voices to have been an afterthought once again for the Government does not bode well for the future, so what reassurances can the Minister give to patients that the role will do what it says on the tin, and be a commissioner for patients? Although the SI has our support, the Government must not see this as the end of the road. Patients will continue to make their voices heard, and I will not stand for anything less than a commissioner who will put them and their safety at the forefront of the Government's approach to healthcare.

4.41 pm

Maria Caulfield: I thank the hon. Member for Enfield North for the Opposition's support in establishing this crucial role. I reassure her that Baroness Cumberlege is part of the recruitment process, and will be part of the interview panel that takes the process forward. I put my thanks to her on the record; without her work in this area, we would not be here today. I also reassure the hon. Lady that it is patients' voices having been heard loud and clear that has established the role. It was a key recommendation, and one that we are taking up as quickly as we can.

This is not the only area within patient safety on which we are making progress. In the Health and Care Bill, which is currently going through the other place, we are changing the Healthcare Safety Investigations Branch into a slightly different body that will look not just at NHS care but at the independent sector. It will be more robust in dealing with patient safety, and patients will have a strong voice in that. On what we are doing in maternity, the early notification scheme has already resulted in an improvement in outcomes for mothers and babies, and is being used as a tool not just to identify problems and find solutions but to learn from processes that have gone wrong in the past. I point the hon. Lady to that amazing work.

Specifically on the patient safety commissioner, there is provision in draft regulation 3 for the term of office, which is initially for three years, with a review process. Because it is a new post, it is important to review how the first three years have gone, but the patient safety commissioner can be reappointed for a further three years, making six in total, which is roughly in line with the term of office for many other commissioners. On the annual report, a copy will be sent to the Secretary of State and put before both Houses of Parliament. Many Members may seek to debate the report and pull out some of its findings. It will be right and proper that the report receives parliamentary scrutiny.

The advisory panel is for the patient safety commissioner to set up. The commissioner has a wide remit, ranging from issues such as maternity to medical devices. It is right and proper that they have a panel of experts, including patients, to look at whichever aspect of patient of safety they are looking at. It will really be for the commissioner to appoint that advisory panel, as set out in the statutory instrument. This is a new role, and we have a break period after the third year to ensure that it is doing the things that we need it to, and that patient safety is the No. 1 priority in healthcare.

Question put and agreed to.

4.44 pm

Committee rose.