



Commissioner for Older People
for Northern Ireland

Being Open Team
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RE: Department of Health Consultation on Being Open Framework

Dear Sir / Madam

The office of the Commissioner for Older People for Northern Ireland (COPNI) welcomes the development of the Being Open Framework. COPNI have called for such measures repeatedly over the years including in *Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home* (June 2018) and in COPNI's ongoing engagement with the Department of Health.

COPNI's investigation of Dunmurry Manor Care Home (and examination of the HSC structures that allowed failings to go unchecked) and our ongoing casework illustrate the importance to the wellbeing of patients and residents of embedding openness within the sector. COPNI supports the ambition in the foreword to the consultation document:

simply introducing legislation is not enough. What we need at the core of this is profound cultural change. We need to create a culture in which staff feel safe, supported and empowered to speak up when things are not as they should be, in the certainty that their concerns will be listened to and acted upon. We need to create a culture where the public can have complete confidence that if the care they receive has not been as it should be, they will be supported, and information about what has happened will be provided to them quickly and accurately. Also, that if mistakes have happened, they will be supported to participate in helping the system learn from these.

Minister of Health, Mike Nesbitt MLA

The *Being Open Framework* is simply an outline of the proposed approach to embed openness within HSC culture, policy and practice. In one notable section of the *Being Open Framework* which addresses oversight, the document reads:

SPPG [the Strategic Planning and Performance Group] will also provide a further assurance by holding provider organisations to account on the delivery of safe services which are of sufficient quality and facilitate the HSC system to embed a culture of learning. (Draft Regional Being Open Framework for the HSC, December 2024, p.26)

In light of the significant failings identified by reviews of the HSC sector in recent years, such a brief allusion to ‘holding provider organisations to account on the delivery of safe services’ illustrates that further detail is required to make a full evaluation of the Department of Health’s plans. Almost needless to say, the detail and implementation of the framework will be critical to its operational effectiveness. Consequently, COPNI offers only broad responses below to key aspects of the framework.

Three Levels of Openness (Q1, 3 & 4)

COPNI agrees with the approach of the framework to address openness at three levels:

- Routine openness: Being honest in everyday care and communication.
- Learning from mistakes: Reflecting on errors to improve and avoid repeating them.
- When things go wrong: Clear communication and accountability when harm is caused.

Normalising and embedding open and honest communication within HSC workplaces will lead to such communication becoming a reflex when failings do occur, allowing staff opportunities to improve and protecting patients and residents.

Regarding ‘how organisations can make honesty and openness a natural part of daily care’, COPNI supports ‘regular training for staff’, ‘celebrat[ing] examples of good practice’ and ‘supervision that is supportive of openness’. However, it is important to recognise that such training initiatives require resources for implementation. Moreover, for HSC services which are commissioned from independent providers such as care homes, questions arise over who will monitor and evaluate such training and who will meet the costs required.

Similarly, with the proposal ‘that organisations should: Encourage staff to talk openly about mistakes without fear of unfair retribution’, the question arises in the case of independent providers: *Who will oversee the implementation of such a culture change and ensure that staff feel protected?*

Statutory Duty of Candour (Q7, 8 & 9)

COPNI unequivocally supports the introduction of both a statutory organisational and statutory individual Duty of Candour. A statutory organisational Duty of Candour would support

organisations in their development of a more open culture by reimagining their mission in terms of a presumption of openness. Likewise, the introduction of a statutory individual Duty of Candour would support staff to be more open by enabling them to rely, if needs be, on a legal obligation to highlight failings in care. The inclusion of a Duty of Candour clause in staff contracts would be welcome as a restatement of the centrality of openness to the professional conduct of HSC staff. COPNI reiterates its position articulated repeatedly in its publications and engagement with HSC leaders, that obligations such as Duty of Candour must also be implemented by independent providers and be monitored by statutory bodies. Independent providers (and staff) commissioned by Trusts, must be subject to the same obligations as public sector providers.

Leadership and Oversight to Promote Openness (Q10, 11 & 12)

COPNI maintains that Boards of organisations and Chief Executives, through their Board Patient Safety and Quality Committee, should be held responsible for creating an open culture. Organisations should report and publish regularly on their progress in being open; organisations should be held accountable for supporting openness by the Department of Health and regulators; and independent audits should assess whether organisations are meeting openness standards. Given concerns about independence and perceptions of independence, COPNI holds that the introduction of an Independent Patient Safety Commissioner to improve openness and patient safety may have merit.

Conclusion

In 2018, the Commissioner for Older People for Northern Ireland stated that effective measures to embed openness and candour in the health and social care sector must be introduced ‘to provide a transparent and meaningful learning process from complaints’ and to ensure that ‘the system which governs and delivers care to older people... encourage[s] openness and transparency’ (*Home Truths: A Report on the Commissioner’s Investigation into Dunmurry Manor Care Home, Summary, 2018, p.62-63*). In 2025, COPNI welcomes the *Being Open Framework* as a significant milestone in realising these ambitions. We commend the department on the progress on this matter and look forward to rapid progress in embedding this framework to improve care for all citizens.

We would welcome further engagement on this matter should it be useful or necessary.

Yours faithfully

Policy Advice and Research Unit

Commissioner for Older People for Northern Ireland