Transcript of Humanising Health and Care Podcast episode 13. Francis Report and the Point of Care Foundation

Rhiannon Finnie

Hello and welcome to the Humanising Health and Care podcast brought to you by the Point of Care Foundation. In this episode, Jocelyn Cornwell, the Founder and first Chief Executive of the Point of Care Foundation. talks to Sir Robert Francis about his experience chairing the Mid Staffordshire inquiries, and the growth of the Foundation following the publication of his Francis Report. Sir Robert also served as a trustee for the Point of Care Foundation for 9 years after we became an independent charity in 2013. Thank you for downloading, and we hope you enjoy.

Jocelyn Cornwell

Welcome, Sir Robert. We first met when you were running the Mid Staffordshire public inquiry and I wanted to thank you to begin with for your very early support for the Point of Care, and your continuing support for it all the way through. So thank you for that.

Sir Robert Francis

It's been a pleasure.

Jocelyn Cornwell

And you've had a very long career now just dedicated to justice and patient safety and patient experience. And I do remember at the time that your report was published, that I and many other people were very impressed by the absolutely incredible number of hours that you put in to taking testimony from patients and families and staff. And listening to what were very obviously painful stories. And that throughout, you'd shown such respect for everybody involved, and your capacity to bear all of that and be reasonable and sensible and humane, I think really struck lots of us. I just wanted to say how very impressed I have been, by the way you did that. But I thought we could begin by I wanted to know what you were doing before the inquiry. Because as a lawyer, you could have worked in lots of other areas of the law, but you chose clinical negligence am I right?

Sir Robert Francis

Well I suppose it probably chose me. I mean, everyone that asks about lawyers and everyone else is, so what do you plan to do with your career? And I think quite often plans aren't planned. Yet, stuff happens. I started off at the bar in general common law work which is crimes and contract work, family law meant anything really that might pay a bill, and there wasn't this, it's a long time ago now obviously, there wasn't such a thing as medical law as such at the time. And in particular, there wasn't weren't very many cases where patients were suing for negligence because of medical accidents. And the basic reason for that was twofold. I think one was, everyone believed doctors were all powerful and incapable of being contradicted. And secondly, you couldn't find an expert to advise about medical negligance because no one, no one would want to shock their professional colleagues.

Jocelyn Cornwell

So this was sort of in the 90s or even earlier?

Sir Robert Francis

I'm talking back in the 70s, maybe. So. But how I got into medical work was that we did do a little bit of work in front of the General Medical Council's Professional Conduct Committee defending doctors who were in trouble. And, frankly, I found that much more interesting than anything else I was doing for a number of reasons. One, was it was intrinsically interesting cases. And secondly, we were dealing with very interesting people, sometimes legal problems as well. And it so happened that obviously, the solicitors who dealt with that sort of work, in the end, when it came about that there were negligence claims, we dealt with those and I began to develop some of those. So that, I started off really defending those doctors themselves. And then the patient side began to come to me and one of the important things about being a lawyer is that you do take cases from both sides in any particular area because if you get beholden to one side, you get a one eyed view of things and you're not actually providing the best service to your client. So I ended up doing those sorts of cases on both sides because in doing that, I met a lot of tragedy. I also met a lot of fantastic people, both in terms of dedicated professionals who'd been just in the wrong place at the wrong time, and also the experts who are often people at the top of their profession. So I got quite an insight through that sort of work into what may makes up all the ingredients of medical accidents and indeed the safety implications of that, and I became increasingly frustrated with the truth beknown, where I did cases where things had obviously gone wrong, how little learning seemed to be taken out of those cases.

Jocelyn Cornwell

And did you notice things change after 2000 because from to 2004 Organisation with a Memory was published, wasn't it and early 2000s medical profession accepted the research that showed that patients were unsafe in hospitals, certain proportion of them, and things so for the very first time, as I remember it, people started to talk about the possibility that medicine could cause harm as well as good.

Sir Robert Francis

I think that I did see changes. But actually, not necessarily through the case, the cases. The problem was, and lastly, for a long time, there's this defensive attitude. And what I might say is a insurance company based attitude, which was, we want to save money. Actually, rather than saving lives, dramatically. They wouldn't have thought about it in that way. But it was very difficult to get cases settled, it was very difficult to get admission, an acceptance that something had gone wrong. And I think we, I saw it more that the law began to change, there was the law, judges have a huge respect (as all the rest of us have) for doctors. And notoriously, were very reluctant to find doctors may have been negligent. And indeed, the test of negligence and medical cases, almost allow the medical profession to write the standards for themselves. And that has slowly changed. And it's changed in part because of awful cases like Shipman and others where perhaps it became judicially recognised, we perhaps couldn't rely on doctors' judgement as much as we had perhaps in the past, as lawyers. And there was also the movement away from, from paternalism, in terms of the doctor knows best towards the emphasis on patients having consented operations or treatment on the basis of an informed position. And that changed the course of my career.

Jocelyn Cornwell

It's so interesting, isn't it? Because we take informed consent for granted now, but just knowing that it wasn't like that. So do you know why you were chosen to chair the inquiry in particular? Why you?

Sir Robert Francis

Well it is one of the features of appointments of chairs for public inquiries, that there is no transparency whatsoever in the process. So literally, I received a telephone call out of the blue from a civil servant who I happen to have met in another context, who asked me if I would be interested in doing an inquiry into a place called Stafford and I that might not have heard of it, which I hadn't. I've heard of Stafford obviously, but not of this particular issue. And I had to make my mind up. This was the first inquiry from the independent inquiry, I was asked my mind up within an hour.

Jocelyn Cornwell

Did you know what you were taking on? Because a public inquiry is an enormous undertaking for and a very long undertaking, isn't it?

Sir Robert Francis

I mean, I've been involved in public inquiries before as a representative of an interested party or core participants. So I knew what public inquiries entailed. I thought, this one could be shorter than some others, because of the first inquiry we'd already established - and indeed the Health Care Commission's report before it - we knew what had happened. And that's what we were looking into. We were looking at the system. Yeah. I probably wasn't fully appreciative of how complex that was going to be. But I realised it was quite a big project.

Jocelyn Cornwell

How many years did it take?

Sir Robert Francis

Well, actually, by the standards of public inquiries, not that long actually it took, I think it was a year.

Jocelyn Cornwell

On top, but that was on top of the independent inquiry, which?

Sir Robert Francis

My involved with Mid Staffordshire was five years overall and the first bit was two or a little bit under and then the public inquiry. I spent a year writing the report. That much I can tell you. There was this sort of 6 months, 9 months, preparation into the collecting staff and then the hearing. But we did it quickly. And one of the reasons we were able to do it quickly was that we didn't do what some inquiries do, which is to collect absolutely all the written evidence and so on in advance and then have hearings, I'm afraid. I thought this was urgent. So we just got on with it as stuff, I mean we did things in sections but as evidence came in we, we asked people to come and give evidence about it, and sort of had a rolling programme which meant a lot of hard work.

Jocelyn Cornwell

With distance from it now, what do you feel were the most important things that you found that needed to change? Because it was an absolutely thorough, comprehensive look at the system wasn't it as it was at the time.

Sir Robert Francis

But the reason I recommended the inquiry in the first place, the public inquiry, was that it was quite apparent to me that a huge amount had gone wrong in the hospital and with its leadership in the first place. The one thing that struck me was how everyone said to me, they didn't know this was going on. And I'm talking about people in the wider system, then regulators, politicians, local politicians. But this was quick, incomprehensible to me. So it seemed to be that there was clear systemic failure, when there were all these bodies, no one to this day can give me an accurate number of how many bodies, organisations there were, who would have had some responsibility for things going on in this establishment. And yet, no one put together the pieces. And there were any number of theoretical ways in which these awful things that were happening that should have been detected, but weren't. I had to try and put that all together. And a lot of people, you know, the further away you get from the hospital, or the front line, that the less exposure, and actually people have whether they be in government, in the Department of Health, the further away they are from real people, real patients. I mean real people are around them but not as patient. And I was astonished, just a small example, to find that civil servants from the Department of Health, many of them will have no exposure to what it was like working on the front line or even visiting hospitals. So I recommended that patients start to do that. And actually the person when I met them.

Jocelyn Cornwell

They did didn't they.

Sir Robert Francis

They did do that. And they found that immensely valuable. And I thought, well, how can you go around making policy about cancer or whatever else it is, unless you actually meet people who've got cancer, and go to the places where they get treated? Then second thing, the second second point was the there's a compulsion to bring forth good news to one's masters as opposed to, as opposed to concerning news.

Jocelyn Cornwell

Yeah. Yup.

Sir Robert Francis

And because, if you're having to reach a target and you've got to meet a performance requirement, then that's what you want to tell people about and you want to tell the public that too, quite understandably. But that then that led to two things. One was a weight, much more weight being given to positive information than negative information, and also to a misinterpretation of statistics in terms of their significance. And finally, stiff opposition to anything that contradicted that picture. And that took many forms, but the most virulent form of formal took about it well, is the treatment of people who raised concerns and therefore the suppression of information both to patients personally, but also to the system of the whole about things that are going on.

Jocelyn Cornwell

That thing about distance from where patients are actually looked after and where the work is being done. Is, is some would say it's just inevitable. And that even if for a period of time, after your report, civil servants from the department were going out and spending time

Sir Robert Francis

I don't think they're doing it now.

Jocelyn Cornwell

I don't think they're doing it now. And that's structures above trusts and where care is delivered proliferate, don't they? I just wonder whether you, whether you were thinking at the time, how do we keep this constantly renewed because it will inevitably regrow this sort of indifference or distance, you know, that comes with distance.

Sir Robert Francis

Well I think you have to have structural solutions. As you probably know, I'm not a great one for committing reorganisations. I think they're dangerous many time. Too much effort is put into looking at how the structures have been. But it seems to me that you're right. And you need to have structures which require patients and the patient voice to be in the room, actually physically in the room. And there are various ways in which you do as Chair of Health Watch, as you could expect me to say I would suggest that Health Watch or that sort of organisation needs to be represented on integrated care systems, for instance. But that's just one example. I think wherever things have been, how to treat people, patient pathways, or whatever details are being discussed in general term, and you need to know what the patients' think about it. Then they should be there and you should talk to them about it. And this isn't just a one off thing every now and then - nice to have. You just need them there. And one reason is because they actually know what it's like. But secondly, it reminds those providing the service all the time about why they're doing it.

Jocelyn Cornwell

One of the things that I continue to find incredibly difficult to deal with is the finding again, and again and again, in the investigations that are published and the inquiries, that the fundamental thing is the failure to listen to patients. Julia Cumberlege, in her report, she said the system as a whole (and she was going from GPs to the wider system) does not understand that patients are the reason are their reason for being is what she said. And I thought that was a devastating indictment of the system, if it doesn't understand that patients are its reason for being. And I continually ask myself, what could change that? You know, because it seems to be like the key to, to so much is if patients when they spoke up were taken seriously. But if there's something about a natural attitude, which assumes that they're right, or that there's something here worth listening to, which seems to be missing.

Sir Robert Francis

Well doesn't it start long before anything's gone wrong?

Jocelyn Cornwell

Oh absolutely.

Sir Robert Francis

It starts when the patient first walks through the door. And most, a lot of things that go wrong are because if you say a patient hasn't been listened to in terms of what their history, what their concerns are, and and why is that in a pressurised environment that doctors, nurses are put in now. They don't want to listen, because they've not got time to listen to this. So they want to know what the problem is. And as soon as they've got a problem an algorithm kicks in, we got, we go into a process, there's a pathway to put the patient on for the need or whatever. As opposed to one actually, I've also got a vague pain in my stomach, but that's not what I'm dealing with.

Jocelyn Cornwell

Also, I'm very worried about my mum or something.

Sir Robert Francis

I'm very worried about my mum or whatever else it is. And it's we have lost the, you know, holistic is a word I don't particularly like, but the holistic relationship between the health care giver, and the recipient of that. We, you know, the old fashioned GP patient relationship used to have that. And the and the GP used to be a sort of gatekeeper, knew the patient, knew the family and knew the social circumstances, who was able to through listening and be able to make sure the patient went to the right place for treatment. And we've sort of lost that it seems to me.

Jocelyn Cornwell

If it was there? I'm never entirely sure it was there.

Sir Robert Francis

It wasn't always there, no of course it wasn't always there. But that's, maybe I'm being too idealistic about that. But we do, we need to start listening to what the patient is telling us. But that also means time to explore what the patient, you know, I'm a bloke aren't I, so I know that if I'm going to the doctor, the last thing I'm going to tell them is anything that might actually require me to do the treatment, you know. You would often someone will tell you when it's what the patient saying as they're about to go out the door is usually the most important thing.

Jocelyn Cornwell

Yeah yeah, absolutely.

Sir Robert Francis

But these days, there's no time for that.

Jocelyn Cornwell

These days it's all on Zoom anyway.

Sir Robert Francis

And of course, we're going into, quite rightly, we're exploring remote medicine, remote concentrations, and so on. There's an even greater danger.

Jocelyn Cornwell

You did, you did earlier on so that you knew there were examples where people were listened to well in services or in organisations. I wondered if, if, if there were particular examples that you had in mind or if that was just, you know, you knew it was possible?

Sir Robert Francis

Well, I do know, the examples and I think the best I could say that, but I think actually, if you look at CQC reports about some of the outstanding places, whether it be care homes or hospitals, you might find examples in there of that. And if you went to the other extreme, and you looked at, those rated as inadequate, you'd probably find the opposite. And that that I think, there are very few (there's going to be exceptions to prove the rule) but I think you will find very few reports about outstanding hospitals that don't identify and describe a culture in which the staff feel free to raise concerns, to feel they're being, they are cared for. And as well as the patients. So, I think that is one of the keys. But it is possible to do that. And we now I think know, how that can be done. So let's say yes, I think the examples are there. And actually, what happens is a lot or should be happening is that, you know, hospitals or trusts rather that have an issue, that leaders should be out talking to the leaders of these places. How do you do it? There isn't much magic about it, it is about leadership. It's about role modelling. It's things like that, rather than what committee structure you have.

Jocelyn Cornwell

So what what do you think has changed? That you could name for the better? That wouldn't, that perhaps wouldn't have changed without the inquiry or the work around it?

Sir Robert Francis

Well, I do think that, and this is patchy. I do think that there is more transparency than there was. And one of the reasons people tend to gloom is that we hear so much about things that have gone wrong. And you know, we started with, you know, listen to the trust right through till today, there are all these disasters that are still coming out. I reckon, and I may be wrong about this, but I reckon that without the developments around Mid Staffordshire, a lot of that stuff, would not have come to light.

Jocelyn Cornwell

So the situation where people said, we never knew about this, you think that that is less likely?

Sir Robert Francis

Well, I think we know it still happened. But I think that we're finding out about things going wrong in a lot of places much more quickly. And there was more of a quicker response to things going wrong than there used to.

Jocelyn Cornwell

Let's, let's just shift a bit, the year, the year that your report was published, you joined the board of the Point of Care Foundation and you served three terms, which is the longest time a trustee can serve.

Sir Robert Francis

Yup.

Jocelyn Cornwell

Why, why did you join? What was it about, the Point of Care was a tiny thing. Why, what was it about the mission that attracted you?

Sir Robert Francis

Well partly what we've just been talking about? Which was, here is a organisation that not only identified, described the values that I've been talking about, it actually provided practical solutions as to what you did it. And whether it be Schwartz Rounds or other things. And there were so few examples, frankly, available. Of that particular. What was the practical thing you put in place. I mean, I struggled and you know, I'll come back to the Point of Care Foundation in a moment, but I've struggled with it. What do I recommend to put this right? Because I ended up notoriously with 290 recommendations.

Jocelyn Cornwell

I thought was 250?

Sir Robert Francis

Oh you didn't get to the last page! And many people politely criticised me for that. But the thing was, they were a mixture of systemic change type recommendations but also I thought just some practical things that matter to patients which still some of those don't happen much. Like having a named consultant, having the name above the bed. All those those sorts of level things are practical things that can, and most patients will tell you, do make a difference. So when I came, getting back the Point of Care Foundation here, here was an idea which demonstrably worked, in relation to improving staff experience. Staff experience clearly was going to improve patient care. That's why we're very enthusiastic about the Point of Care Foundation and felt it needed a boost and hope I helped in getting one.

Jocelyn Cornwell

No question. Having somebody, having you on the board and some of the other people, when we were so small, actually made people take it very seriously in a way that they might not have done otherwise.

Sir Robert Francis

The advantage of it was it wasn't established. It wasn't

Jocelyn Cornwell

No, it was unknown.

Sir Robert Francis

And actually, therefore, I think there's a greater freedom to develop something than if you've been a bit bound by haven't been around for too long.

Jocelyn Cornwell

Yeah that was what excited me about it.

Sir Robert Francis

It would never have happened without Jocelyn.

Jocelyn Cornwell

Well, I think the fact that we'd started at the Kings Fund as well gave us great pedigree, didn't it? Because Kings Fund somehow conferred this is this is okay. When, once we got going, I was almost continuously amazed by how relatively easy it was to spread the Schwartz Rounds. That whenever you spoke about them, you would find people in the room saying I'd like to do that. Can you tell me more and you know, and then as in the past, I'd been involved in trying to make change from different places. And it was always more difficult than that. But the work that we that we did and that Point of Care continues to do around directly on patients' experience rather than staff experience, continues to be much, much harder, both to get into the system. And actually just, it's more intellectually challenging. It's kind of it's it's just much, much, much more difficult work, it seems to me and harder to sustain as well than the Rounds. And I just wondered if you had reflections on that?

Sir Robert Francis

You're absolutely right. Like you said that was my observation. I think it's something to do with the fact that the Schwartz Rounds as a concept it's one of those things firstly, that when you explain what it is there's some sort of light bulb moment, 'well of course that would be a good thing'. But secondly, there was a ready made package.

Jocelyn Cornwell

Yep.

Sir Robert Francis

Which we would be just providing.

Jocelyn Cornwell

Yep.

Sir Robert Francis

And so it needed remarkedly little effort, and actually, not a huge amount of resource for it, particularly in the beginning, when the Department of Health were backing it, which was really helpful. Where and it was thought it was safe, because it had sort of been accredited, if you like, in part of America, but also by the Schwartz, you know, the whole thing has a structure to it.

Jocelyn Cornwell

And we could point to the fact it'd been going on in the States for some time.

Sir Robert Francis

And also work, we could very swiftly point to examples where it was working here. So I think it was very easy for people who were looking for solutions to this cultural challenge to say, 'Oh, this is something we can do.'

Jocelyn Cornwell

Yeah.

Sir Robert Francis

Maybe there was a bit of a risk that they would think this is the solution to everything, because of course it's it's not. And it's not the only way of course, if you could necessarily do this particular piece of care at the start.

Jocelyn Cornwell

So we're sort of coming to the end. So sad.

Sir Robert Francis

Time flies!

Jocelyn Cornwell

After, after the report was published, the Mid Staffordshire reports, plural. You've taken on or since then, you've taken on a lot of different roles in public life. You were trustee of Point of Care, President of the Patient's Association, Chair of Health Watch, you're a non exec on CQC board, I expect other things that I don't know about. Which suggests to me, do you think there's that there's not one lever, there's multiple levers that need to be pulled to make change happen? But how would you say that? Because there's I mean, there's, you know, when you think about it, almost every report you read talks about regulation, leadership, improvement, education, patient voice, etc. Do you think that you have to have all of those things lined up to what what do you think about that?

Sir Robert Francis

One of the reason that there's been to over 290 recommendations? Yes, it is. It's complicated. And you need to line up all these, as we now know. We now in the middle, we've suddenly realised there's a workforce crisis. Why is that?

Jocelyn Cornwell

I know, how long has it taken?

Sir Robert Francis

Why is that? Well, why we don't have we haven't had a strategy for workforce. Each Royal College has had its own contribution to make them out their own part of it. No one has put this all together. No one knows to this day what numbers of nurses you need in order to be safe in particular places. So you need a workforce strategy, you need to train people appropriately. You need to provide them with the tools to do those jobs, you need patients involved. And in order to work out what they need. And you need a system that keeps all this going. So yes, you do need all that you're right. I mean, I felt I wanted to help at the Point of Care Foundation because it seemed staff wellbeing was a really important bit of this.

Jocelyn Cornwell

And nobody was really talking about it either.

Sir Robert Francis

Which I think to be fair they are now.

Jocelyn Cornwell

Yes, absolutely.

Sir Robert Francis

Which is probably another thing which is better, although the implementation of that is really patchy because it's thought to be one of those soft areas which can be cut in times of austerity as opposed to the very opposite should be the case.

Jocelyn Cornwell

Yes, absolutely fundamental.

Sir Robert Francis

You should put more resources into that. And obviously the Patients Association and Health Watch is important, very important, probably the most important thing, because what the patients can tell you. And regulation I would actually say comes, people always accuse me actually of writing a report all about regulation. It wasn't.

Regulation will never be the answer on its own. All it does is it provides you with a means, and only one means, of detecting whether things are going wrong or have gone wrong. But almost by definition the regulator arrives on the scene too late.

Jocelyn Cornwell

Yeah.

Sir Robert Francis

And that can help set standards and I think also, I'd like to think CQC has done well while I've been on its board, as we've increasingly seek sought to be supportive as supportive regulation in the sense that we are here to make sure standards are kept, but actually we're also here to to describe the situation. So, I think our state of care reports have been very powerful in actually explaining the systemic issues that are often leading to poor care.

Jocelyn Cornwell

Yeah, I think we've come to the end of my questions.

Sir Robert Francis

Ah yeah well fine.

Speaker

Is there anything else that you'd like to say? I mean, does it seem?

Sir Robert Francis

No, well there's lots of things I could say. It's been an amazing, and privileged actually, period of time. Obviously, if you'd asked me 20 years ago would I have had the experience I've had in the last 10 years, the answer would be no. And but it's been a privileged position and I think not enough people have a position of being able to have an oversight of the system and its complexities and its darkest corners and its bright parts and I think actually maybe that's, and I can't solve these things, but we need more people that have that sort of slightly independent overview but know enough about it all. As opposed to, the NHS is a lot of villages and towns and countries, I mean professional ones. And a lot of the time they unwittingly work against each other. And actually if they sort of sit more globally and look and the sort of national multidisciplinary team approach one might almost say, we'd probably get further more quickly.

Jocelyn Cornwell

Interesting.

Sir Robert Francis

Just a thought.

Jocelyn Cornwell

Thank you.

Sir Robert Francis

Pleasure, always nice to talk to you Jocelyn.

Rhiannon Finnie

Thank you for listening to this episode of the Humanising Health and Care podcast. You can find all episodes and more on our website at pointofcarefoundation.org.uk, and be sure to subscribe wherever you listen and follow us on Twitter to be notified when our next episode is available. Thank you.