

The Health Bill and GP Commissioning Consortia

LMC Information Bulletin
No. 2

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This is the second of our series of information bulletins offering up to date and readable summaries of changes flowing from the government's White Paper and Health Bill and what they will mean for GPs.

What's been happening since the last LMC information bulletin?

The government launched a further two public consultations linked to the White Paper:

- **Liberating the NHS: greater choice and control:** This consultation explained the proposals in more details and sought the views on proposals for offering more choice for patients and service users, how shared decision making can become the norm, and how it can happen (information, 'any willing provider' and other tools and making safe and sustainable choices)
- **An Information Revolution:** These proposals are part of the Government's agenda to create a revolution for patients - "putting patients first" - giving people more information and control and greater choice about their care. The paper proposes a locally-led strategy for computerising the NHS, with patients having greater access to electronic information, including their own medical records.

These consultations closed on 14 January 2011. The Department of Health is expected to publish an information strategy by early summer.

Following the publication of the White Paper and various associated consultations, the government produced the **Legislative Framework and Next Steps** document in response to feedback received through the consultation process. The main points were:

- The accountable officer of a GP consortium does not have to be a clinician.
- Membership of consortia will 'flex rather than be fixed forever, with consortia able to expand, contract, dissolve or merge.'
- There will be no minimum or maximum size of consortia; but the NHS Commissioning Board must be satisfied a consortium's size is appropriate.
- Each GP practice will nominate a clinician to represent it on the consortium.
- A 'small minority' of consortia will not be ready in time for the 2013 deadline – in which case the NHS Commissioning Board will commission services in those areas until GPs are ready.
- Only a small 'sub-set' of consortia's commissioning outcomes targets will be rewarded by 'quality premiums'.
- The NHS Commissioning Board will only have the power to intervene in consortia's decision-making where there is evidence that consortia are failing or are likely to fail to fulfil their functions.
- The NHS Commissioning Board will have the powers to establish and maintain a risk pool with consortia
- The NHS Commissioning Board's main office will be in Leeds, but also 'representation at a range of locations to be decided.'

Although the government is going to continue with a majority of the proposals made in the White Paper, there have been a number of changes including the following:

- Maternity services will in the future be commissioned by consortia, rather than the NHS Commissioning Board
- Consortia will be required to have a written constitution
- Strengthened role for health and wellbeing boards
- Scrutiny functions will not be removed from local authorities.

The full response can be found here:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_122707.pdf.

The operating framework for the NHS in England 2011/12 was published at the same time. This stated that PCTs would merge into cluster by June 2011 in response to the drive to reduce management costs. Clusters are to support the development of consortia by offering them a £2 per head development fund. This should be in addition to existing PBC DES funding. The framework can be viewed in full here: http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_122736.pdf

The DoH also published '*Healthy Lives, Healthy People: Our strategy for public health in England*', which outlines the Government's plans for tackling today's causes of premature death and illness, and for reducing health inequalities.

It explains the key role GPs will play in delivering the strategy, which gives local communities more control over how public health funding is used.

A new public health service, Public Health England, will maintain a national grip on crucial population-wide issues such as flu pandemics.

The details can be found online at the Department of Health's website:

<http://www.dh.gov.uk/en/Publichealth/Healthyliveshealthypeople/index.htm>

The Government's consultation paper on education and training in the NHS - **Developing the Healthcare Workforce** - was released on Monday 20 December 2010.

The paper proposes that deanery functions may be taken on by healthcare provider 'skills networks', legal entities that will:

- hold and allocate funding
- contract the provision of education and training.
- be multi-professional, coordinating and managing workforce plans,
- work in partnership with Universities, AHSCs, and the providers of health and social care
- act on behalf of providers, but also hold providers to account ensuring continuous quality improvement and assurance of educational standards

There is also an imperative to reduce duplication and bureaucracy, as well as delivering against best value for money. Roles and responsibilities for commissioning and delivery of education will need to be clearly defined. The consultation makes it clear that it will be up to localities (which may be regional) to determine the form of their own organisation and that Strategic Health Authorities will be responsible for managing transition.

The final date for responses is 31 March. The details can be found online at the Department of Health's website: http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_122590.

So what about the Health Bill?

Health secretary Andrew Lansley published the draft Health Bill on 19 January 2011. The legislation will put GPs at the heart of the most far-reaching reforms of the NHS for 60 years.

The 367-page Health and Social Care Bill contains an unprecedented level of detail about the Government's controversial plans for GP commissioning will work in practice, while a 165-page impact assessment published at the same time for the first time puts a price tag on the reforms.

The assessment predicts the reforms will cost a total of up to £1.5bn, much of that due to redundancy costs at PCTs and SHAs, but estimates that up to £8.8bn could be saved by reducing the cost of commissioning across the health service.

The bill itself indicates that the NHS Commissioning Board will be granted wide-ranging powers to help determine the structure and shape of GP consortia - and could end up parachuting in private providers to help run those that are deemed to be failing.

The BMA immediately issued a strongly-worded response to the bill, saying that it supports the greater involvement of clinicians in planning NHS services, but warning the reforms as they stand are a 'massive gamble'.

One of the most significant elements of the bill appears to be that GPs will be legally bound to adhere to all of their consortium's commissioning decisions, including policies on referral management and prescribing, under plans laid out in the health bill.

If the bill is passed, each practice will be legally obliged to become a member of a consortium from April 2013, and will be required to act in accordance with the group's commissioning policies.

The regulations say they will make provision for 'requiring a relevant contractor, in doing anything pursuant to the contract, to act with a view to enabling the consortium to which it belongs to discharge its functions'.

The move sets the scene for potential clashes between GPs, should consortium leaders disagree with practices over whether certain patients ought to be referred or about prescribing of particular drugs. We'll be looking into this clause carefully over the next few months.

View the Bill and track its passage through Parliament:

<http://services.parliament.uk/bills/2010-11/healthandsocialcare.html>

So what happens next?

The bill will get a *Second reading* in the Commons on a date yet to be disclosed but it usually takes place no sooner than two weekends after first reading.

This is the first opportunity for MPs to debate the main principles of the Bill. The Government minister, spokesperson or MP responsible for the Bill opens the second reading debate. The official Opposition spokesperson responds with their views on the Bill. The debate continues with other Opposition parties and backbench MPs giving their opinions.

At the end of the debate, the Commons decides whether the Bill should be given its second reading by voting, meaning it can proceed to the next stage. It is possible for a Bill to have a second reading with no debate - as long as MPs agree to its progress.

Once second reading is complete the Bill proceeds to committee stage - where each clause (part) and any amendments (proposals for change) to the Bill may be debated.

What is happening locally?

Bassetlaw Commissioning Organisation (BCO) and Principia have been appointed first wave Pathfinders while Nottingham City has been appointed a second wave Pathfinder. Pathfinders are potential 'early adopters' who are encouraged to experiment and test out organisational models so that others can follow and learn from their experience. BCO is coterminous with the existing PCT but expects to work closely with GPs in the neighbouring Doncaster consortium in commissioning services from Doncaster and Bassetlaw Hospitals Trust. Principia is one of five PBC clusters in Notts County who expect to retain their current geographical configuration as they evolve into consortia. In the City the four PBC clusters will form the basis of a locality structure on which the citywide consortium will be founded.

All the PBC groups mentioned are currently undergoing a limited transformation to facilitate the creation of shadow consortia from April this year. The need for these organisations to modify their constitutional structures varies as does their need to conduct fresh elections. What many existing clusters lack in particular is a means by which patients and other professional groups can be shown to be involved, and there have been concerns in particular as to how salaried and sessional GPs can be engaged in this process. The LMC's Salaried and Sessional GPs subcommittee is producing a discussion paper offering ideas about this.

Given the small population size of the consortia in NHS Notts County, it is inevitable that they will want to seek a shared solution to many organisational, management and commissioning support needs. Consistent with comments by DoH leaders like Dame Barbara Hakin and the BMA, staff in the County PCT have been considering the establishment of a commissioning support unit or an even more wide ranging service support agency as a social enterprise, recognising that the Secretary of State is adamant that there will be no accountable NHS organisations between the NHSCB and consortia.

As the PCTs continue to haemorrhage staff the Chief Executive of the NHS and chair designate of the NHSCB Sir David Nicholson has encouraged neighbouring PCTs to 'cluster' together to share staff and responsibilities. The appointment of NHS Nottingham City Chief Executive Andrew Kenworthy as interim Chief Executive of NHS Notts County will no doubt assist this process locally.

How is opinion shaping nationally?

Nationally many organisations continue to express grave reservations about the thrust of government policy towards the NHS, particularly about the abolition of PCTs and the ability of GPs to manage the huge responsibility expected of them. As these fears are shared by many politicians, including a number on the government benches, it is likely that the Health Bill will be subject to some amendments during its passage through both Houses of Parliament. It remains to be seen whether, in the context of growing opposition to cuts in public services, the government's position on its reform of the NHS will be compromised by increasingly vocal challenges from the medical and managerial establishment.

What is Notts LMC Ltd doing about all this?

The LMC has been discussing the future requirements of consortia with cluster needs via our PBC Associates Forum. We have also arranged for independent legal advice to be provided to cluster leads by BMA Law. We have agreed to oversee new elections to a number of posts on transitional executive boards while circulating advice from the GPC together with discussion papers we have put together on relevant topics such as service support agencies and engagement with sessional GPs while engaging in discussions with many of the organisations interested in working with GP consortia when the PCTs are no more.

There will continue to be discussion at LMC open meetings as further information emerges. We plan to host two commissioning mini conferences in April called 'Re-shaping Services' (details available soon) and will most likely be organising a series of meetings for practices in the autumn introducing them to the change of culture and working relationships arising from changes brought about by the Health Bill.

We also want to hear from grassroots GPs who may have ideas or concerns which they believe are not being considered, recognising that it is our responsibility to see that all GPs are engaged in the reform process. If you have comments queries or concerns about any of the matters in this bulletin therefore please let us know by writing to office@nottslmc.co.uk.