

Implementing the NHS Long Term Plan

Proposals for possible changes to legislation

Should the law be changed to prioritise integration and collaboration in the NHS through the changes we recommend?

We agree with greater integration and collaboration within the NHS and an end to predatory private sector involvement in the provision of health services, but feel strong that appropriate oversight and supervision should remain in place.

Promoting Collaboration

Do you agree with our proposals to remove the Competition and Markets Authority's functions to review mergers involving NHS foundation trusts?

While we are supportive of a streamlined process for mergers, especially if it is possible to reduce costs. However, we believe that it is important that an independent review process remains. If the proposal is that NHS Improvement is merged with NHS England, we would want to be assured that the independent oversight remains of this process to ensure both patient safety and choice remains paramount, and that NHS staff are treated fairly in the course of any merger.

Do you agree with our proposals to remove NHS Improvement's powers to enforce competition?

We agree that there are situations in which competition is unnecessary, especially where it introduces unnecessary cost and complication to the process of commissioning health services. Indeed, there are clearly situations in which enforcing competition run contrary to NHSI's role support improvement in quality of care and appropriate use of NHS resources.

Do you agree with our proposals to remove the need for contested National Tariff provisions or licence conditions to be referred to the CMA?

Yes. We agree that these powers should reside within the remit of NHS Improvement.

Getting better value for the NHS

Do you agree with our proposals to free up procurement rules including revoking section 75 of the Health and Social Care Act 2012 and giving NHS commissioners more freedom to determine when a procurement process is needed, subject to a new best value test?

The BDA strongly agrees with the intention to remove the requirement to undertake a competitive procurement process. Commissioners and ICP should have the ability to award contracts directly to NHS providers if they believe that to be best value.

It is important that any new "best value test" explicitly includes a range of criteria that prioritises the quality of patient care, employment standards and the interests of the public. We support the TUC view that this could be better termed a "Public Value test".

Increasing the flexibility of national payment systems

Do you agree with our proposals to increase the flexibility of the national NHS payments system?

We agree that there should be more flexibility in the payment system, to reflect issues such as geographical spread/density and specific local health needs. It is obvious that in some areas' services will be more or less expensive to deliver due to factors outside of local control.

We would want to ensure that there remains oversight of this process, and in particular are concerned that removing NHSI's (as Monitor) role as a neutral arbiter between providers and commissioners. We would want to ensure there is scope for providers to raise concerns if they believe tariff prices are no longer appropriate to provide a service.

Integrating care provision

Do you agree that it should be possible to establish new NHS trusts to deliver integrated care?

We agree that there should be appropriate flexibility to create new trusts if that is desired by local communities, commissioners and providers. We support the proposals to ensure a wide range of healthcare professionals are involved, and would urge that this be specifically stated within any new guidance or regulations of Integrated Care Providers. This should include as a matter of course Allied Health Professions, as well as doctors and nurses.

While the expectation that an ICP contract would be held within a NHS body is welcome, we believe that this should be strengthened in and support the Allied Health Professionals Forum's suggestion that legislative proposals be extended to give this a statutory basis.

Managing the NHS's resources better

Do you agree that there should be targeted powers to direct mergers or acquisitions involving NHS foundation trusts in specific circumstances where there is clear patient benefit?

While we agree that there should be powers to compel reluctant trusts to restructure in cases where there is a clear patient benefit, such as improved service safety. We would want to see much more detail about the checks and appropriate safeguards that would be put in place to govern such a decision.

Any decision to merge trusts must be done with the involvement and consultation of both patients and staff. Mergers should not be pursued simply as a means of saving money, at the expense of local provision and capacity.

Do you agree that it should be possible to set annual capital spending limits for NHS foundation trusts?

We agree that there should be alignment between the power to enforce capital spending limits on standard and foundation trusts.

Every part of the NHS working together

Do you agree that CCGs and NHS providers be able to create joint decision-making committees to support integrated care systems (ICSs)?

We agree that providers and commissioners should be able to collaborate more closely, including through the creation of a joint decision-making committee. However, there is a distinct lack of detail as to the responsibilities and powers of these proposed committees within the consultation document. We would be keen to review any proposed guidance regarding the make-up of such committees, and to receive assurances that they will be representative of service leaders from across health and care professions.

Do you agree that the nurse and secondary care doctor on CCG governing bodies be able to come from local providers?

We agree with this flexibility. We disagree strongly that such roles should be restricted in law to a nurse and secondary care doctor, and instead should more loosely define the requirements to health and care professionals with appropriate experience and expertise. There is no good reason why a director of allied health professions/therapies or senior therapies consultant should be unable to hold one of these positions. Indeed, these appointments should be open to the full breadth of healthcare professionals working for local providers.

Do you agree that there should be greater flexibility for CCGs and NHS providers to make joint appointments?

Again, in principle we support this suggested change but would need to see much more detail as to how such joint appointments would be managed. Not only should this include very clear guidance on potential

conflicts of interest, but also how such roles would work in terms of day-to-day responsibilities. It would be important to ensure joint appointees do not end up emphasising or prioritising one role or organisation over another.

Shared responsibility for the NHS

Do you agree that NHS commissioners and providers should have a shared duty to promote the 'triple aim' of better health for everyone, better care for all patients and to use NHS resources efficiently?

Again, this is a laudable proposal and we agree that all NHS commissioners and providers should have such a duty. We agree with the TUC that a fourth duty should be added, requiring commissioners and providers to promote a world class workforce – which is in keeping with the aims of the Long Term Plan.

However, there is a lack of detail as to how this statutory duty will be meaningfully enforced, what measures will be utilised to determine whether organisations are meeting the duty. We would not want such a duty to place undue burdens on already hard-pressed providers, but at the same time such a duty is meaningless unless it is clear what success looks like.

We think it is worth considering how this duty might be made less NHS specific, as the clear aim of the Long-Term Plan and move towards ICS/ICP is that social care, public health and other providers form a key part of a joined up approach to promoting better health for everyone.

Planning our services together

Do you agree that it should be easier for NHS England and CCGs to work together to commission care?

We agree that NHS England and CCGs should be able to work more closely to commission care. We would argue that local government should be specifically included within these considerations as well so that NHS/CCG public health and prevention services can be more closely aligned with local authority public health provision.