

# Actions for members on the proposals outlined in the Integration and Innovation white paper

## Overview

This briefing is for integrated care systems (ICSs). It sets out the influencing that the ICS Network is undertaking on behalf of members in response to the legislative proposals in the Department of Health and Social Care's (DHSC) white paper, Integration and Innovation.

It sets out a summary of the key points we received from systems in February and March 2021, as well as how we aim to influence on your behalf to support the effective transition to statutory ICSs.

The white paper signals the government's intentions for integrating the NHS and proposes significant changes to the way health services are commissioned and delivered. DHSC is currently drafting a bill to enact these changes, expected to be presented to parliament in June 2021, passed by mid-July and implemented in April 2022. We have heard very clearly that the legislation is intended to support integration and not impose strict rules on local operation.

## Introduction

In February 2021, the government published [Integration and Innovation: Working Together to Improve Health and Social Care for All](#). This white paper sets out the key elements of a forthcoming health and care bill, the first piece of new primary legislation on health and care in England since the Health and Social Care Act 2012 (HSCA 2012).

In March 2021, the NHS Confederation responded to the proposals set out in the white paper, with the publication of [Legislating on the Future of Health and Care in England](#). This report outlined that while the Confederation broadly welcomes the direction of travel towards integration, it has concerns on the proposals in four key areas. These are: increased powers for the Secretary of State; governance and accountability; the duty to collaborate; and pace and timescales. Since publication, the Confederation has met



with ministers and senior officials from both NHS England and NHS Improvement (NHSEI) and the Department of Health and Social Care (DHSC) to convey these concerns.

Building on this, the ICS Network is undertaking its own influencing and engagement on the proposals set out in the white paper. The network has gauged the reaction of ICSs across a range of issues and will be representing systems' concerns in our regular ongoing meetings with national stakeholders, with the aim of influencing both the forthcoming health and care bill and its accompanying guidance.

This document sets out the issues, outlining member feedback and how we are influencing on members' behalf.

## Overall principles

- As far as possible, **ICSs are looking for flexibility**. We must make sure that the flexibility in the legislation is not lost through 'straight jacketed' guidance. It will be important to understand the parameters of local flexibility and what is and is not up for local determination. We advocate the notion of systems being given ideas, options and examples, but NHSEI and DHSC avoiding being too prescriptive.
- Specifically on the **issue of place, the less mandating of the detail the better**. Place is different wherever you go.
- While difference in form is to be encouraged, there must be **absolute clarity on the accountability framework**.
- Developing and implementing **the right metrics will be key in measuring success**.
- There will be a need for **ICSs to share best practice and system-to-system learning** must be encouraged. The NHS Confederation has a key role here.

# Priority issues

## Issue: Governance

Arrangements for:

- ICS NHS body
- Health and care partnerships (HCPs)
- Health and wellbeing boards (HWBs).

Relationship and interaction between them.

### Member reactions

- There has been lots of concern about creation of two separate bodies, each with their own board. Members are not clear on the two separate entities and how they may work. Clear guidance is needed about the relationship between the two parts, expectations, chairing arrangements, etc. Greater clarity on the differences in function between the two would be very helpful.
- We need to be careful to avoid a hierarchy where the ICS NHS body may presume that it has hierarchy given its spending power. It risks driving partners away.
- Will the ICS NHS board and partnership boards have separate chairs? There is a risk that two boards potentially with two different chairs creates confusion and/or tension. ICS NHS board is not the job that most ICS chairs applied for – there is potential for significant turnover in this process.
- Having two boards risks replication for some systems. It may not make sense in smaller ICSs which already have an integrated board with all partners (for example, where there is just one of everything in terms of organisations).
- What choices should be open regarding HWBs? Can the legislation enable a conversation and decision amongst local partners about how the duties of the proposed partnership board and those of HWBs can be combined?
- How does an NHS board work, particularly in regard to managing conflicts of interest?

### ICS Network position

While it is right for there to be some flexibility on the form, governance and interaction between the two ICS bodies, it must be clear what the statutory function of each body is and who is to hold them to account.

Without such clarity, there is a real risk of conflict and/or stalemate within systems in future. This is complicated further by the significant existing differences in accountability structures between NHS organisations and local authorities, as well as the significant variation in the sizes of different ICSs.

### Guidance/legislation next steps

- The recent planning implementation guidance confirms that there will be one statutory ICS NHS body and one statutory ICS health and care partnership per ICS from April 2022.
- Though we await detail of what the statutory function of each will be, systems are expected to confirm governance arrangements for the NHS body and health and care partnership by end of Q2.
- NHS Confederation's report, [The Future of Integrated Care in England](#), calls for clarity on the highlighted questions around governance and accountability in legislation and/or supporting guidance.

## Issue: Accountability framework

Performance and regulation – how will ICSs be performance managed and what should be the roles of national bodies such as the Care Quality Commission (CQC) and NHSEI?

### Member reactions

#### Accountability of systems

- We need to understand the roles of NHSEI and CQC.
- It would be helpful to have a more improvement collaborative approach. Sector-led improvement in local government has lessons for ICSs – greater focus on peer review, support and challenge and less on the hierarchy.
- Clear guidance is needed on what will be considered ‘safe and legal’ on 1 April.
- Greater clarity is needed on accountability of different parts of the system. For example, who decides on the capital plan? Where will CCGs’ legal responsibilities for public engagement sit?

#### Accountability of systems

- Greater clarity is needed about how we are going to hold partners to account within a system. The white paper is not as clear as it needs to be. What is the line of accountability for ICSs? What are the expectations? How will we handle a system failure or serious quality issue? Who is holding the organisation to account – is this still NHSEI? Wherever it is unclear, there will be accusal.
- Segmentation – how can you segment a partnership?

Much will rest on the detail of the new oversight framework, with real challenges around how this framework can address all parts of the system (the present framework is largely silent on primary care, for example).

Difference between regulatory functions and performance, improvement and assurance – which bodies address each of these in future?

The Secretary of State has spoken about legislation reforming the role of NHSEI to be a supportive transformation agency rather than a quasi-regulator, which will require significant cultural change. ICSs are keen to be involved in discussions about what this should look like and are discussing what changes are needed at NHSEI.

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## ICS Network position

In its report, [The Future of Integrated Care in England](#), the NHS Confederation called for radical reform of the existing oversight framework for systems.

The ICS Network believes that as far as possible systems need to be left to get on with the job in hand, with a supportive oversight regime that broadly aims to enable rather than prescribe.

At present, ICS chairs and executive leads are responsible for the direction and performance of their system. However, under the new framework it is unclear which individual(s) will ultimately hold accountability for the performance of the ICS – and from which body.

The Confederation has been clear in its messaging over the last 12 months that the way NHSEI works needs to change as we move to statutory ICSs.

## Guidance/legislation next steps

On accountability of systems, NHSEI has launched a [consultation](#) into the system oversight framework. This will allow the ICS Network (and the wider Confederation) to convey system leaders' views on the planned oversight of systems.

The ICS Network has held a session for ICS leads and chairs to feed their views into the Confederation's submission.

On accountability within systems, we await the detail on which individuals will be legally accountable for different aspects of system delivery and performance. The ICS Network will press NHSEI and DHSC on this issue privately.

The ICS Network will be making the point to NHSEI that early sight of the new NHSEI operating model would be helpful.

## Other issues

### Issue: Purpose/ambition of ICSs

#### Member reactions

Emphasis on health inequalities and contribution to economic development was lost in the white paper. There is a need to be clear on this in the accompanying guidance.

We must emphasise the ambition of ICSs – a broad role working in true partnership with local government.

#### ICS Network position

The four purposes set out for ICSs, confirmed in the white paper, are supported by system leaders.

There is, however, a real opportunity to go further in relation to health inequalities.

#### Guidance/legislation next steps

A section of the recent planning implementation guidance is dedicated to health inequalities, with welcome direction for systems on how to improve the inclusivity of services and tackle issues such as digital exclusion.

The NHS Confederation report, [The Future of Integrated Care in England](#), calls for a commitment to address health inequalities to be enshrined in law as part of the duty to collaborate.

### Issue: ICS development and support

#### Member reactions

Good ideas come from many places. Across ICSs, it will be important to share learning, development plans, etc. How will this be supported.

#### ICS Network position

The ICS Network is well-placed to assist NHSEI on the support of ICSs. System-to-system learning will be key to the development of ICSs over the coming years.

#### Guidance/legislation next steps

While outside the scope of legislation and implementation guidance, shared learning should become a central part of the future support offer to systems.

The ICS Network will offer to work collaboratively with NHSEI on this.

## Issue: System finance

Pooling/delegating budgets at ICS and place level

### Member reactions

How will place-based budgets be developed and delegated? What is the accountability/legal framework; what is the place-level entity that would be responsible? Accountability needs to be light-touch but sufficient enough to be taken seriously.

How will we pool budgets at system-level across the NHS and local government? Where would this sit? The Health and Care Partnership may not be a statutory entity so it is understood this will sit with the ICS NHS body, but there is nervousness from local authorities about this.

### ICS Network position

One of the strengths of the existing NHS framework is that it is clear how money flows from NHSEI at national level down to CCGs at local level and who holds statutory responsibility for funding.

While we have started to see some detail of provider collaboratives, integrated care partnerships and joint committees, it remains unclear how money will flow down to place level and who is legally responsible for spending decisions.

### Guidance/legislation next steps

The recent planning implementation guidance confirmed some financial details for systems over the coming year, including a continuation of the current block contract payments approach.

The questions raised by members highlighted on the left, however, remain unclear.

This issue is highlighted in the NHS Confederation report, [The Future of Integrated Care in England](#), as something that should be addressed in legislation and will be a focus for ICS Network engagement with DHSC and NHSEI.

## Issue: Resourcing and transfer of functions and staff from CCGs and NHSEI

### Member reactions

The roles, skillset and experience required of the ICS leadership team are not the same as the current CCG/STP/ICS executive teams. Members recognise the need to protect staff, ensuring stability and continuity, however what individuals will be doing in an ICS may be fundamentally different.

There will be a real missed opportunity to set up ICSs to succeed if we just lift and shift current CCG/STP/ICS leadership teams into statutory ICS leadership teams. We will have to work hard to avoid ICSs becoming a CCG by another name.

### ICS Network position

On this issue, the ICS Network is working jointly with NHS Clinical Commissioners (NHSCC), which is undertaking work to identify what functions are of particular concern, where they should sit in future, and the employment transition for staff between CCGs and ICSs.

It is key that while we secure the legacy from CCGs, it is recognised that ICSs are different and separate from CCGs, requiring new skills and approaches.

### Guidance/legislation next steps

This will be an issue for implementation guidance over the coming months. The ICS Network will work alongside NHSCC to ensure that we build on best practice.

## Issue: Clinical leadership

### Member reactions

There is a risk that clinical input into system decisions becomes lost as clinical commissioning functions are passed to the ICSs.

The role of lay members is not mentioned; members are concerned about the loss of the 'lay voice' at the strategic influencing model.

### ICS Network position

While we believe that ICSs should have the freedom to determine their own distributive clinical leadership model, we feel there should be a requirement for ICSs to have lay and clinical leadership representation at ICS board level, not just mandated 'clinical advice', but with local flexibility in what form this representation takes.

### Guidance/legislation next steps

There is potential for clinical leadership requirements to be written into law, and the NHS Confederation makes this ask in its report, [The Future of Integrated Care in England](#).

However, it could also be addressed through implementation guidance. The ICS Network will therefore continue to make the point in conversations with NHSEI on the guidance.

## Issue: Implementation programme and timescales

### Member reactions

ICSs will be a statutory body with accountability around an allocation for a system. It cannot be run with a small executive team made up of leaders from the partner organisations – there is a need for a team of staff to do the work.

Timescales for implementations are very tight. There are risks associated with the timescales. There is a need to be pragmatic about how this is managed, with longer timescales perhaps needed in some areas.

The volume of work to transition from CCG into ICS and to place under the proposed timescale is vast.

### ICS Network position

There is danger of systems being overwhelmed. There is lots still to do in relation to COVID-19 (and risk of further surges); vaccination programme; staff recovery; service recovery; ICS transition. There is a real risk that we waste the next year or two with burdensome transition.

### Guidance/legislation next steps

The NHS Confederation report, [The Future of Integrated Care in England](#), raises this issue of ambitious timescales for the transition to statutory ICSs.

Both the report and the [Confederation member briefing](#) on the planning guidance argue that systems cannot be 'dumped' with new commissioning powers from NHSEI (for example around wider primary care services such as dentistry) straight away from April 2022.

This will be supported through wider ICS Network engagement with NHSEI on supporting guidance for the bill.

## Issue: ICS boundary changes

(Note: This issue affects some but not all systems.)

### Member reactions

The recent boundary changes stock take has demonstrated the considerable complexity involved in boundary discussions, with some of the proposed changes proving divisive both within and between ICSs.

ICSs have reported mixed messages from both national and regional teams at NHSEI, which have caused considerable confusion and have threatened to destabilise local relationships.

The issue has now, to some extent, been clarified in the implementation guidance to support NHSEI's planning guidance for 2021/22, however questions remain (see 'ICS Network position'). ICSs affected by boundary change are likely to see a significant impact on leadership time and these changes risk setting some ICSs back

### ICS Network position

Additional support will be required for some ICSs – for example those impacted by boundary change – to ensure that no ICS is disadvantaged by delays to these decisions.

We also believe there is a risk that the requirement for boundary changes has the potential to jeopardise the transition to statutory status by April 2022. Strong relationships between system partners cannot be built overnight.

### Guidance/legislation next steps

The recent planning implementation guidance states that ICS boundaries will align with upper-tier local authority boundaries by April 2022, unless otherwise agreed by exception.

The ICS Network will engage with NHSEI for clarity on this, including on the criteria under which exceptions will be made and on what additional support will be made available to systems affected.

## Issue: Appointments

### Member reactions

ICS leadership roles – we need clarity about the process and timescale for appointing to senior roles (in particular chairs and chief executives). What are the appointment processes for the two new statutory bodies – the ICS NHS body and ICS health and care partnerships? How will we make decisions when ICSs have already appointed to senior ICS roles (lead, chair and director roles) – will they be scrapped or locked in?

### ICS Network position

The ICS appointment process is an opportunity to build on existing expertise on supporting greater diversity at board level, building on the experience of the NHS Confederation's NED Taskforce. The appointments process should be open and transparent, but also ensure that it is undertaken at a reasonable pace to support ICS leadership teams manage the transition to statutory status and transfer of CCG/NHSEI functions.

### Guidance/legislation next steps

The planning implementation guidance states that by Q2 systems must have confirmed designated appointments to ICS chair and chief executive positions (following the second reading of the Bill and in line with senior appointments guidance to be issued by NHSEI).

By end of Q3, systems should have appointed to other ICS NHS body executive leadership roles, including place-level leaders, and non-executive roles.

## Contact

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