

Health and care bill: committee stage briefing

- The government's health and care bill seeks to support integration and collaboration across the NHS to improve care for patients. Among other reforms, it establishes statutory integrated care systems to organise care and abolishes existing clinical commissioning groups (CCGs).
- The bill is currently going through a Public Bill Committee, which will report back to the whole House no later than 2 November before a third reading in the Commons.
- **The NHS Confederation asks MPs to:**
 - 1) Support the bill, which will advance changes already underway and remove barriers to integration, helping to deliver better and more joined-up care for patients.
 - 2) Support an amendment imposing checks and balances on proposed new powers for the Secretary of State to intervene in changes to local healthcare services, ensuring clinical advice on changes to clinical services, accountability outwards to communities not just upwards to Whitehall, and transparent decision-making.

Support for the bill

- **Welcome the bill** – NHS leaders broadly welcome the bill to put integrated care systems (ICSs) on a statutory footing and to support local integration of services, which is already underway. There is broad support across health and care for the 'vision' of ICSs: partnerships that aim to foster joint working and progress collectively towards more effective population health management; a robust public health framework based around prevention; and bringing care closer to people's homes.
- **NHS-led** – The bill is largely based on recommendations from NHS England and NHS Improvement and implements bottom-up reforms driven by local NHS leaders and local government. It removes legislative barriers to local integration of care services, which is already in motion, to enable better and more efficient care for patients.
- **Collaboration** – NHS leaders are broadly in agreement that the bill does not represent any move towards 'privatisation' of the NHS. Instead, it scraps mandatory tendering and moves the organising principle of the NHS from competition to collaboration.

Ministerial powers amendment

- **Care quality risk** – The bill introduces significant and largely unchecked new powers for the Secretary of State (SoS) to intervene at any stage of a decision on a local health service reconfiguration (such as a change in location or the type of treatment provided by an NHS organisation), without clinical advice, local input or transparency. Clinical expertise risks being frozen out of decisions about clinical services, putting the quality and safety of patient care at risk.
- **Proposed amendment** – These clauses should have clear checks and balances. We propose amending Schedule 6 so the SoS is legally required to: (a) consider clinical advice about changes to clinical services, (b) consider the view of local health overview and scrutiny committees so there is outward accountability to communities not just upwards to Whitehall, and (c) set out transparently why the intervention is in the public interest. This proposed amendment is supported by the Local Government Association, Centre for Governance and Scrutiny, British Medical Association and National Voices. See full amendment below and in amendment paper (amendments 102-104, page 5). At the time of writing, these amendments are set to be voted on by the Health and Care Bill Committee.

Ensure local flexibility

- **Locally-tailored** – Legislation should avoid creating an overly prescriptive set of centralised ‘one-size-fits-all’ rules, guarding against the mistakes of the 2012 Lansley reforms, and instead enable flexibility and locally-tailored approaches. We call on parliamentarians to resist amendments which would create excessive prescription in law.
- **Board membership** – There will likely be many proposed amendments to legally mandate further integrated care board (ICB) roles (in addition to the existing ten mandated roles) or exclude certain organisations – these should be resisted to empower local flexibility, trust local judgement and enable balanced representation from across the health and care sector. We believe that such positions can be ensured through supporting guidance, where there is a good reason for doing so.

Wider issues

- **Funding and social care** – The success of the bill and the NHS will depend on many factors excluded from the bill: sustainable social care funding, alleviating the elective care backlog, addressing long-term NHS funding and workforce issues. These can be addressed outside the bill, in the government’s forthcoming Spending Review and the next Budget, as well as the anticipated social care white paper.
- **Workforce planning** – There should be more robust duties on the SoS regarding workforce planning. Along with a coalition of health and care organisations, we support [an amendment to Clause 33](#) requiring mandating independent assessments of workforce needs in health and social care every two years to inform future workforce planning.
- **Regulation** – NHS leaders want a lean, light and agile regulatory regime to enable local approaches to improve the health and wellbeing of their local populations. A government amendment clarifying the Care Quality Commission (CQC)’s role in inspecting systems is expected. ICSs should continue CCGs’ co-regulatory quality assurance role, working in partnership with the CQC, and avoiding duplicating the existing NHS Oversight Framework. We caution against simplistic ‘Ofsted-style ratings’ of complex system, which would offer little value, false reassurance and would demotivate systems which are focusing on safely adopting their new statutory responsibilities.

Recommended amendment to Schedule 6: INTERVENTION POWERS OVER THE RECONFIGURATION OF NHS SERVICES

Amendment A

Schedule 6, page 180, line 12, at end insert—

““relevant Health Overview & Scrutiny Committee” means any Health Overview and Scrutiny Committee in an area to which the proposal for a reconfiguration of NHS services relates.”

Explanatory statement

This amendment is consequential on amendment [B].

Amendment B

Schedule 6, page 180, line 41, at end insert—

“(3A) Before taking a decision under sub-paragraph (2)(a), the Secretary of State must—

- a. consult all relevant Health Overview & Scrutiny Committees, and
- b. have regard to, and publish, clinical advice from the Integrated Care Board’s Medical Director.”

Explanatory statement

This amendment would require the Secretary of State to consult any relevant Health Overview and Scrutiny Committee (as defined by amendment [A]), and to have regard to and publish clinical advice from the ICB Medical Director, before intervening in local service reconfiguration.

Amendment C

Schedule 6, page 180, line 43, at end insert—

“(aa) publish a statement demonstrating that the decision is in the public interest.”

Explanatory statement

This amendment would require the Secretary of State to publish a statement demonstrating that any decision they have made on a reconfiguration proposal is in the public interest.

The NHS Confederation is the membership organisation that brings together, supports and speaks for the whole healthcare system in England, Wales and Northern Ireland. The members we represent employ 1.5 million staff, care for more than 1 million patients a day and control £150 billion of public expenditure. We promote collaboration and partnership working as the key to improving population health, delivering high-quality care and reducing health inequalities.