

The NHS Funding Bill

This briefing has been produced ahead of the NHS Funding Bill proceeding through the remaining stages of the legislative process on 4 February 2020. It provides analysis on what the Bill means for you, should it become law, and explains what impact this will have on the NHS's multi-year funding settlement.

Key points

- The NHS Funding Bill makes 'provision regarding the funding of the health service in England in respect of each financial year until the financial year that ends with 31 March 2024'. In effect, this legislation commits the government to enshrine the NHS multi-year funding settlement into law.
- The Bill follows a commitment in the Conservative Party [manifesto](#) that 'within the first three months of our new term, we will enshrine in law our fully funded, long-term NHS plan'. The Queen's Speech on 19 December 2019 also announced: 'For the first time, the National Health Service's multi-year funding settlement, agreed earlier this year, will be enshrined in law'.
- The Bill contains a double lock on both the Secretary of State for Health and Social Care and the Treasury, in effect a legal duty, to uphold the minimum level of cash NHS revenue funding in the multi-year settlement.
- According to the government, the multi-year funding settlement will result in a £33.9 billion increase in cash terms by 2023/24, with total NHS England spending rising to £148.5 billion by the end of this term, representing a real-terms increase of £20.5 billion.
- The Bill does not determine how the additional funding will be spent and this will be for NHS England and NHS Improvement to decide, as set out in the NHS Long Term Plan. The Bill also does not provide any additional funding to the NHS on top of what has already been announced and does not address those areas not included in the multi-year funding settlement. These areas include social care, education and training, public health and capital investment.

- This is a novel Bill in two respects. It's the first major Bill to enact the English Votes for English Laws (EVEL) procedure, which has implications for the committee stage reading of the Bill. The Bill also marks an increase in the trend for governments to legislate to bind themselves to their policy pledges.
- During the second reading debate on 27 January 2020, two key themes surfaced, that of whether the settlement marks a floor or a ceiling in government spending, and whether a commitment should be made by the government that the multi-year settlement should increase with inflation.

Background

On 18 June 2018, the then Prime Minister Theresa May announced a multi-year NHS funding settlement. The settlement only applies to the NHS England revenue budget and notably did not cover other areas of spending by the Department of Health and Social Care, such as public health, capital, education and training and social care.

The Conservative Party came forward with a commitment in their manifesto during the last General Election to enshrine in law 'our fully funded, long-term NHS plan' within the first three months of a new term. Following the General Election, this commitment was confirmed during the Queen's Speech on 19 December 2019.

The NHS Funding Bill commits the government to increase investment in the NHS in the years to 2024. It contains a double lock on both the Secretary of State for Health and Social Care and the Treasury, in effect a legal duty, to uphold the minimum level of cash NHS revenue funding in the multi-year settlement. It does not determine how the additional funding will be spent and this will be for NHS England and NHS Improvement to decide, as set out in the NHS Long Term Plan.

The funding commitment being enshrined commits minimum NHS England revenue funding of £127.01bn in 2020/21, £133.28bn in 2021/22, £139.99bn in 2022/23 and £148.47bn in 2023/24.

The NHS Long Term Plan was published in January 2019 and sets out how the budget settlement for NHS England will be spent over the next five years. This Bill does not impact the allocation or division of that funding. The government is also committed to present a draft bill to deliver the NHS Long Term Plan. NHS England and NHS Improvement's legislative proposals will likely shape the nature of this bill, with work already underway to transform delivery of services serving as a foundation for primary legislation.

You can find more detail and assessment of the government's legislative agenda in our [Queen's Speech analysis](#).

Process

The Bill was introduced to the House of Commons on Wednesday 15 January for first reading, which is the formal introduction of the Bill, and was debated at second reading on 27 January, which is where the principles of the Bill are considered before moving on to committee stage.

The Bill is novel in two respects. It's the first Bill following the general election to enact the English votes for English Laws (EVEL) procedure. This has implications for the committee stage, which will take place on 4 February. MPs will sit as a Legislative English Grand Committee, which will only include MPs from English constituencies, but will be followed by a report stage during which all MPs can vote. We will keep you up to date with the Bill's passage. This new process has some implications for the amendments put forward to the Bill on the basis that there is likely to be some objections to the procedure itself from the SNP. The remaining stages of the Bill are due to take place on 4 February 2020.

The Bill is also novel in another respect, it marks an increasing trend for governments to legislate to bind themselves to their policy pledges. The [Bill](#) itself is just five pages long (Bills can often run into hundreds of pages) and highlights that it is ultimately a mechanism to enforce an action, as opposed to a significant new policy or agenda. The reason this is unusual is because the government already has control on its spending. What the Bill does is specify what this should be and place a legal duty on the Treasury to provide it. This is therefore a declaration and enforcement of powers already bestowed on the government, it does not provide any addition public expenditure. However, we will be closely monitoring and providing updates on the Bill as the funding settlement itself is critical in determining what the NHS can and cannot achieve in the years to 2024.

Please do not hesitate to email the ExternalAffairs@nhsconfed.org if you have any questions about the legislative process or what this Bill means for you.

The second reading debate (27 January 2020)

The debate highlighted the many areas of health spending that are excluded from the multi-year settlement, such as public health, the training of doctors and nurses, capital budgets and social care funding. But on the substantive issue of enshrining the multi-year settlement in law, as laid out in the legislation, two key themes surfaced from a number of insightful contributions from across the House: whether the settlement marks a floor or a ceiling in government spending, and whether a commitment should be made by the government that the multi-year settlement should increase with inflation.

Matt Hancock, the Secretary of State for Health and Social Care, opened the debate stating that with this Bill, the NHS is the one institution that knows it will get the funding it needs in 2024 that will be enshrined into law. The secretary of state also added: “the legislation explicitly states that the Bill establishes a floor, not a ceiling, for how much we spend on our vital and valued public sector and on the revenue budget”.

Jon Ashworth, the Shadow Secretary of State for Health, responded that: “this is not a serious funding Bill; it is an underfunding Bill. It is a political gimmick of a Bill”. He added the Bill essentially caps NHS funding, “as the amounts in the Bill are in cash terms, not real terms, which is what the previous secretary of state presented to the House in summer 2018”. He also noted that the secretary of state, “could not give a commitment that the NHS will get the real-terms increases that the previous secretary of state outlined, should inflation run at unforeseen levels”.

Our view

The government believes that not enough recognition was given to the multi-year funding settlement initially announced in June 2018. Given that the NHS played a significant part in the narrative of the last General Election and continues to do so, the government is keen to restate the additional funding and appear to commit themselves to delivering it. Whilst a critical subject matter, this Bill is principally an aesthetic mechanism to reinforce the multi-year funding settlement.

To put the commitment in context, it represents a 3.4 per cent year-on-year increase in expenditure, which is a significant increase on what the NHS received in 2010 when the Conservatives entered No.10. However, it is still considerably less than the 6 per cent average annual increases seen under Labour between 1997–2010. When adjusted for inflation, and factoring in the increased cost of equipment, medicines and staff pay, it could actually be worth £20.5bn by 2023–4.

As highlighted in the second reading on 27 January, there are also questions around what the funding settlement will actually be worth by 2023–4. The figures enshrined in law through the Bill are in cash terms and, should inflation not meet expectations over that period, there is no legal duty to ensure that real-terms increases are maintained. In short, the Bill protects the settlement as it stands, but does not account for a significant change in inflation against expectations.

It is of course welcome that the NHS is at the heart of this government's legislative agenda, but whilst a legally binding commitment to the multi-year funding settlement is also welcome, it does not change the funding commitment itself or deal with those areas not covered in the multi-year settlement, and we need to be realistic about what this funding can deliver.

Investment in training clinicians and creating an emergency capital infrastructure fund for NHS trusts must be immediate priorities when setting an appropriate budget in the 2020 Spending Review. And whilst the NHS People Plan will go some way to addressing recruitment and retention, the service does require additional funding beyond the multi-year funding settlement of £20.5bn to create the additional nursing and other posts it needs to meet rising demand. In addition, the funding settlement does not address social care, which is facing a growing unmet need and a vacancy crisis. The government should use its majority to deliver a sustainable social care system, backed up by a long-term financial settlement.

What next?

Following the second reading on 27 January, the Bill will be considered by the Legislative Grand Committee on 4 February as part of the English Votes for English Laws procedure. The Grand Committee will represent the committee scrutiny stage of the Bill and the remaining stages will also provisionally take place on 4 February. Once the Bill completes the legislative process, it will not change the amount of funding the NHS receives beyond what has already been announced and it will not alter commitments made in the NHS Long Term Plan. What it will do, however, is enshrine in law the funding that has already been promised.

- The NHS Confederation's external affairs team will keep you updated on the Bill's progress. In addition:
- The chief executive of the NHS Confederation, Niall Dickson, has called for a meeting with the Secretary of State for Health and Social Care and members to discuss urgent priorities of the NHS.
- Since the General Election, the NHS Confederation and networks have been in contact with all MPs with top priorities for members and have embarked on a programme of engagement regarding the government's new legislative agenda. This includes raising what you told us was important to you in our [NHS priorities for the new government](#) report:
 - Setting a realistic budget in the 2020 Spending Review to restore investment in training clinicians, facilitate recruitment and retention and mitigate the effects of the loss of the nursing bursary.
 - Scrapping the tapered allowance on pension contributions.
 - Delivering a long-term solution to social care.
 - Creating an emergency capital infrastructure fund for NHS trusts with maintenance backlogs deemed high or significant risk.
 - Publishing a white paper in response to the independent review of the Mental Health Act and committing to a new mental health bill.
 - The NHS Confederation-led Brexit Health Alliance and NHS Employers-led Cavendish Coalition will continue to lobby the government to ensure that patients and staff are at the heart of Brexit negotiations.

About the NHS Confederation

The NHS Confederation is the membership body that brings together and speaks on behalf of the whole NHS. We represent over 500 members across health and social care, including hospitals, community and mental health providers, ambulance trusts, independent sector organisations providing NHS care, and clinical commissioning groups.

We have three roles:

- to be an influential system leader
- to represent our members with politicians, national bodies, the unions and in Europe
- and to support our members to continually improve care for patients and the public.

All of our work is underpinned and driven by our vision of an empowered, healthy population supported by world-class health and care services; and our values of voice, openness, integrity, challenge, empowerment.

To find out more, visit www.nhsconfed.org



Floor 15, Portland House, Bressenden Place, London SW1E 5BH

Tel **020 7799 6666**

Email **enquiries@nhsconfed.org**

www.nhsconfed.org

Follow the NHS Confederation on [🐦 @nhsconfed](https://twitter.com/nhsconfed)

If you require this publication in an alternative format, please email **enquiries@nhsconfed.org**