

NHS England and NHS Improvement
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Please reply to:
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Our Ref: NHS ICS C 1
Your Ref:

22 December 2020

Dear Sir

Re: INTEGRATED CARE SYSTEMS CONSULTATION

On 26 November 2020 NHS England and NHS Improvement jointly issued a consultation document entitled *Integrating Care: Next steps to building strong and effective integrated care systems across England*. This document sets out proposals for the significant extension of the role of integrated care systems in the NHS, proposals which it is apparently intended to result in legislation with effect from April 2022. The consultation is set to close on 8 January 2021. Our immediate concern, leading to the writing of this letter, is over this consultation period.

The GPDF is concerned with the interests of GPs throughout Great Britain. GPs have historically been and continue to be at the heart of the NHS delivery of primary care. It is apparent that the proposals in this document have potentially very significant implications for that, as well as for the autonomy, role and funding of general practice in the future. As this is a matter which may materially affect GPs, it is crucial that they have the opportunity to be heard.

We note that, at their core, the proposals involve a substantial extension of the role of integrated care systems, with the planning, commissioning and organising of services moving to this level. Associated with this would be the devolution of a greater share of primary care funding and improvement resource to integrated care systems. Among specifics mentioned are:

- Primary care providers working with a wide variety of other services with meaningful delegated budgets (para 1.16);
- A need for system-wide governance arrangements, including a partnership board with NHS, local councils and other partners represented (para 2.29);
- Finances to be increasingly organised at integrated care systems level (para 2.39);
- The creation of a single pot including current CCG budgets, primary care budgets, specialised commissioning spend, central support or sustainability funding and nationally held transformation funding (para 2.40);

- Current CCG functions being absorbed to become core functions of integrated care systems (para 2.64).

When we reach the two options outlined in section 3 of the paper, your clear preference for option 2 is in part because it will replace the current GP-led CCG model (your description) with a board of representatives from the system partners.

The proposals thus clearly offer a fundamental change to the way primary care is organised and its funding allotted. The system would move from one where GPs have a leading role, to one where GPs will be just one voice among many and with a significantly reduced role and influence. Importantly, the funding for primary care will no longer be separate from the single pot which the leadership of the integrated care system will disburse as it sees fit. We seriously question whether this reduced role and influence for General Practitioners can be in the best interests of patient care. Of particular note is that the document makes only three references to General Practitioners, and these are all in the context of a moving away from a GP-led model. We note that it makes no reference whatsoever to the GP independent contractor model and the maintenance of patient lists with GP practices, which has been the cornerstone of NHS patient care since 1948 and which we consider to be a quite staggering omission from any document purporting to discuss the structure of the NHS. Whether the proposed changes are merited or not, a matter about which we have the gravest doubts, they are clearly hugely significant for the delivery of primary care generally and for general practice in particular.

We remind you that NHS England has a statutory duty under section 13Q of the National Health Service Act 2006 to involve the public by information and consultation about changes to service delivery, as well as a common-law duty as a public body to consult with those potentially affected by changes it proposes. It must observe the long-established Gunning Principles, recognised since 1985, including that consultation should allow adequate time for consideration and response. A similar approach emerges from the Cabinet Office Principles, last revised in 2018. The overriding point is the need for proportionality of the type and scale of any consultation to the potential impacts of the proposal decision being taken, and thought should be given to achieving real engagement rather than following bureaucratic process. Specifically noted, at point E, is that consultation should last for a proportionate length of time, and at point G that when a consultation period spans a holiday period consideration should be given to the effect of that, and the possible need to extend the period.

This consultation was launched on 26 November, while England was in lockdown and the NHS generally, and GPs specifically, were trying to address the Covid pandemic and rapidly rising infection rates, all of this occurring as we enter the heart of the flu season. GPs are far from immune to the pandemic themselves and many practices are in consequence short-handed, adding to their difficulties. Further, the consultation spans the period during which the Pfizer vaccine has received approval and become available and GPs have been at the forefront of vaccinations; given the known fragility of the vaccine and the difficulties of transport and storage this has entailed a huge logistical challenge. It spans also the period of Christmas and New Year, with its concentration of Public Holidays in a short space of time, this being also a period when many people take annual leave and many businesses close down for a week or more. The period allowed for responses is 6 weeks and 2 days even though the Cabinet Office guidelines suggest periods between 2 weeks for the simplest matters and 12 weeks for matters of complexity and major impact. The period offered is manifestly too short

for the importance of the matters at stake, even if it were a period when GPs could be expected to have some spare capacity to address the issues. At the time chosen, when they are already at full stretch in this unprecedented situation, the time allowed is wholly unrealistic.

We would remind you that where a duty to consult exists, as it does here, decisions made without first conducting a realistic consultation are, on that ground alone, liable to be set aside via Judicial Review as being made in breach of the common law duty of fairness.

Accordingly we invite you at this stage to accept that the consultation, to be meaningful, realistic and in accord with your public law duty, must be lengthened to give the opportunity for intelligent consideration and reasoned response. Given the importance of the proposed changes we would suggest that this is a matter appropriate for a 12-week period and that the time for responses should therefore be extended to 19 February. It is vital that proposals of this significance not be pushed forward without a proper opportunity for all views to be put forward and considered. This cannot be achieved without such an extension.

We must further ask for your urgent response to this request. If we have not heard from you agreeing to the extension by the end of this month, we shall have no alternative but to urgently consider what further steps to make, including possible applications to the Court.

We trust that you will see the good sense of this proposal, in line with the emphasis nowadays on "getting it right first time". We therefore await your prompt and positive response.

Yours faithfully



D A Möderle Lumb
Chair

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