



National Voices

People shaping health
and social care

National Voices

Summary of the government's Command Paper on health:

how does it relate to National Voices' positions?

January 2011

Introduction

In 2010 the coalition government issued its White Paper on 'Liberating the NHS', plus a wave of related consultation documents. National Voices submitted a single consolidated [response](#).

In December 2010 the government replied to all of these consultations with a [Command Paper](#) called *Liberating the NHS: Legislative framework and next steps*. This is essentially a statement of how the government now intends to take forward its White Paper plans, including any changes made in the light of the consultations.

Note that two further consultations, on information, choice and control, were still continuing at the time of this publication.

In the following sections we consider the Command paper plans by theme, and look at how these relate to the things that National Voices advocated. We exclude the technical details of the National Outcomes Framework, which will be analysed separately.

1. Scale and scope

National Voices expressed some concern at the pace and scale of the White Paper reforms (without specifically requesting a changed timetable). Very many other organisations had similar anxieties.

In response the government has:

- produced a single integrated transition plan for all the reforms
- started up a programme for pathfinder GP commissioning consortia
- promised a pathfinder programme for the new local HealthWatch
- slowed the timetable to introduce economic regulation

2. Putting patients first

The White Paper promised to put patients first through, for example, shared decision-making, greater choice and control, and an information revolution. However, the Command Paper adds little to that vision, as the government was still waiting for the conclusions of its consultations on information, choice and control.

3. Healthwatch

3.1 Supporting people to make choices and through complaints advocacy

Here the government's refined plans accord **to some extent** with National Voices' position. The government proposed these new roles for HealthWatch. National Voices said these functions should be available locally, but it should be a local commissioning decision as to whether to obtain them from HealthWatch or other organisations.

The government has now decided that:

- The forthcoming Health Bill will provide for local authorities to commission HealthWatch to provide advice and information to enable people to make choices about health and social care
- responsibility for NHS complaints advocacy will transfer to local authorities in April 2013 and there will be flexibility for local authorities to decide which organisations to commission complaints advocacy services from
- local HealthWatch will have the ability to 'escalate' concerns by making recommendations to the HealthWatch England committee of CQC for CQC to carry out investigations

3.2 Monitoring the NHS Constitution

The White Paper suggested local HW could have a role monitoring the implementation of the NHS Constitution locally. National Voices said this could be too bureaucratic:

“We would favour a more general brief for HealthWatch to use the Constitution as a key tool for informing and empowering individuals and for holding services to account”

The government has now rowed back from its suggestion. It says that where local authorities commission HealthWatch to provide advice and information to enable people to make choices about health and social care (see below), this could include helping people to access and understand information about the NHS Constitution.

3.3 Funding

National Voices called for HealthWatch to be 'properly funded' for all their functions. It called for ring-fenced funding. The government (in line with overall coalition policy) rejects ring-fenced funding. It has promised an increase in resources, as follows:

- £53.9 million for 2012/13 plus £3.2 million for start-up costs
- by 2013-14, the combined funding available for local HealthWatch and NHS complaints advocacy services will rise to £66.1m

3.4 Independence

National Voices wanted to see that HealthWatch both locally and nationally would be independent:

"Local HealthWatches need to be sufficiently independent of local authorities... National HealthWatch needs to be visibly independent of the CQC."

The government continues to plan for local authorities to commission HW, but promises that:

"The Government will set out proposals for governance and stakeholder engagement at the time of the publication of the Bill. An early priority will be to set out how relationships and accountabilities will work, especially the relationship between local authorities, local HealthWatch and HealthWatch England."

National Voices advocated that HealthWatch England should have its own board with an expert lay leadership. The government states that:

"We intended to assure HealthWatch's independence by establishing it within CQC, which is wholly independent from the Government. But, recognising the concerns raised, HealthWatch England will also have a distinctive identity and role within CQC to support its independence...."

"The Bill will therefore establish a HealthWatch Committee within CQC. We intend that the Committee will be represented on CQC's board by its chair, who will be appointed by the Secretary of State for Health. The HealthWatch England Committee will carry out the work of CQC related to HealthWatch England and have powers to provide advice to the NHS Commissioning Board, Secretary of State for Health, CQC and Monitor."

The CQC will have a duty to have regard to such recommendations.

4. Integrated outcomes frameworks

National Voices advocated a single integrated outcomes framework for health, well-being and social care.

The government has **rejected** this but does say it will ensure close linking between its three planned frameworks:

- an NHS Outcomes Framework, now published [here](#)
- a Commissioning Outcomes Framework, to be developed by the NHS Commissioning Board
- a social care outcomes framework

5. Health and well-being boards

National Voices said it should be a matter for local determination whether overarching health and well-being boards should be established between all relevant partner agencies.

The government has decided the opposite: there will be a statutory board for every upper tier local authority area.

6. Commissioning

6.1 *Lay participation in running GP consortia*

National Voices emphasised that commissioners must be accountable to and understand patients, service users and local communities.

Specifically, National Voices argued that:

“it is vital that there is equal lay participation in the governance of consortia, and that their meetings are held in public”

The government **rejected** this proposal. It says it is ‘unlikely to work’. It does not want to ‘impose’ such conditions and it must be for consortia themselves to decide their arrangements.

However, when consortia apply for approval by the NHS Commissioning Board they will have to submit a constitution. This must include arrangements for discharging their statutory functions (which will include public and patient engagement).

The NHS-CB will also issue guidance to consortia on the form and content of their constitutions.

6.2 *Patient and public engagement in GP commissioning*

More generally National Voices stated that:

“We favour a model of co-leadership between clinicians and lay people, strongly linked in to existing channels of patient and lay engagement at local level.”

The government says it has begun to work with emerging consortia on strengthening engagement and will link this into its consortia pathfinders programme.

The government “will also promote close working between emerging GP consortia and PCTs to help ensure that, during the transitional period, consortia are able to draw on the expertise and experience of PCT staff and the repository of information about public views held at PCT or borough level.”

6.3 *Using feedback from patients and service users*

National Voices said that GPs are not proxies for patients and that GP commissioning will need to draw on the expertise of patients and patient organisations. It called for all commissioning guidelines to recognise the centrality of PPE in designing services and pathways.

The government now says in response to such views that the Health Bill:

“will therefore place a duty on GP consortia and the NHS Commissioning Board to ensure that people who may receive a service are involved in its planning and development, and to promote and extend public and patient involvement and choice.”

6.4 *Maternity services*

Although this is not an issue on which National Voices took a view, we note that the government reversed its initial proposal that the NHS-CB would commission maternity services. These will now be commissioned by GP consortia.

6.5 *NHS Commissioning Board*

National Voices called for significant lay involvement in the governance of the NHS-CB.

We can find no mention of this issue in the Command Paper.

However, there is a new plan for the Secretary of State to consult publicly each year on the priorities for the NHS-CB.

David Nicholson, chief executive of the NHS, has been appointed as head of the NHS-CB to ensure continuity. The board will begin to establish itself in shadow form from April 2011.

7. Local authorities and health and well-being boards

7.1 *Membership of health and well-being boards*

As noted there will be a statutory board for each upper tier local authority.

The government will legislate that these must include a core membership (eg directors of social care services), that will include the local HealthWatch. Beyond that core it will be for each board to decide additional members.

This **does not meet** National Voices' demand for lay and user representatives to make up 25 per cent of membership and receive suitable training and support.

7.2 *Scrutiny functions*

National Voices was among many respondents to oppose the government's suggestion that health overview and scrutiny committee functions should pass to the health and well-being board.

The government **accepted** it was wrong and withdrew the proposal.

Further, it will legislate to extend local authority scrutiny so that it can cover any provider of any NHS-funded service, as well as any NHS commissioner.

This still leaves open the question of how local HealthWatch relates to scrutiny processes.

8. Foundation trusts

8.1 *Private income cap*

The government will press ahead with plans to remove the private income cap. National Voices had opposed these plans.

8.2 *Lay governors*

National Voices opposed the suggestion that lay membership of FTs could be reduced or removed at each FT's discretion.

The government **withdrew** this proposal.

Further, the government has decided to strengthen FT governance by:

- requiring the FT to hold an AGM for its members
- giving governors an explicit duty to hold directors to account

8.3 *Monopolies*

National Voices expressed concern that the government's intention to allow a more flexible regime for merger of FTs or acquisitions of one FT by another would allow the market to be dominated by acute providers at the expense of those from other sectors (including the Third Sector).

The government is 'pressing ahead' with these plans but promises that there will be regulation to protect competition.

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