

The Health and Social Care Bill:

Where are we now?

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The Health and Social Care Bill has now passed through the Commons and awaits its second reading in the House of Lords on 11 October. Getting to this point has been far more fraught than had been predicted back in January when the Bill was first laid before Parliament. The pause and listen exercise conducted earlier this year, followed by the NHS Future Forum's report, was perceived by many as a U-turn from Government. In total, the government tabled 161 amendments to the Bill, 81 of which were sent back to a second House of Commons Bill Committee for consideration. As the Westminster bubble packed their buckets and spades for sunnier climes the quiet question being whispered by many was "where does this leave NHS Reform? What will this new system actually look like?" This paper will attempt to clearly and concisely lay out where the Bill stands now and what the next stages are likely to mean for the structure of the "new" health system.

Where is the Bill now?

The Bill has now completed its passage through the Commons and is awaiting its second reading in the House of Lords on 11 October. The second Committee stage was necessary because the amendments tabled as a result of the NHS Future Forum's report of the "pause and listen" exercise were considered substantial enough by the Department of Health (DH) to require further parliamentary scrutiny.

In April this year - in the wake of widespread outcry about the details of the Bill - the Prime Minister, Deputy Prime Minister and Health Secretary announced that the Bill would be "paused" in its progress through Parliament. The Government brought together leading healthcare influencers to form the NHS Future Forum, led by Professor Steve Field.

On 13 June 2011 the NHS Future Forum published its recommendations to Government. A fortnight later the Government responded to the report welcoming the recommendations from the Forum and listing what recommendations it would carry forward. As a result, 181 amendments were drawn up and tabled.

Key Changes:

The amendments sought to clarify aspects of the Bill that the Forum had found to be either unclear or which need to go further than originally proposed.

The key changes to the Bill:

- GP consortia will be renamed "clinical commissioning groups" (CCGs). In addition to GPs, they will contain at least one nurse and one specialist doctor
- The NHS Commissioning Board and CCGs will take active steps to promote the NHS Constitution, which enshrines the core principles and values of the NHS, including the 18 week limit on waiting times;
- The Bill will make clear that Ministers are responsible for the NHS overall – the original duty to promote a comprehensive health service will remain
- Commissioners will be supported by clinical networks (advising on single areas of care, such as cancer) and new "clinical senates" in each area of the country (providing multi-professional advice on local commissioning plans) – both hosted by the NHS Commissioning Board

- The Bill will make sure there are clearer duties across the system to involve the public, patients and carers
- The Bill will improve governance for CCGs: their governing bodies will have lay members and will meet in public
- The Bill will insist that Foundation Trusts have public board meetings
- The Bill will create a stronger role for health and wellbeing boards in local councils, with the right to refer back local commissioning plans that are not in line with the health and wellbeing strategy
- Monitor's core duty will be to protect and promote the interests of patients – not to promote competition as if it were an end in itself
- There will be new safeguards against price competition, cherry picking and privatisation
- There will be stronger duties on commissioners to promote (and on Monitor to support) care that is integrated around the needs of users – e.g. by extending personal health budgets and joint health and social care budgets, in light of the current pilots
- The NHS Commissioning Board will promote innovative ways to integrate care for patients
- The Bill will ensure a safe and robust transition for the education and training system, taking action to put Health Education England in place quickly to provide national leadership and strong accountability while moving towards provider-led networks in a phased way
- The Bill will ensure that, during the transition, deaneries will continue to oversee the training of junior doctors and dentists, and give them a clear home within the NHS family
- The Bill will improve the quality of management and leadership, for example by retaining the best talent from Primary Care Trusts (PCTs) and Strategic Health Authorities (SHAs) and through the ongoing training and development of managers
- The Government will further consider how best to ensure funding for education and training is protected and distributed fairly and transparently, and publish more detail in the autumn

What Next?

The Bill has now passed to the House of Lords for consideration and is awaiting its second reading on 11 October. It will go through all the same stages as it did in the Commons, including a Bill Committee. It is expected that the Bill will undergo intense analysis in the second chamber and there is speculation it may not receive Royal Assent until April 2012. This would be much later than had been originally anticipated – although the Government seems to have factored this possibility in by moving back the date for the abolition of (PCTs) and (SHAs).

Michael White, writing in the Health Service Journal in mid-July felt that “the pressure to be more innovative is so great that the bill, heading for the Lords in September, is increasingly irrelevant.”

There is some truth in this statement. Many of the structural changes that are being sanctioned by the Bill are already taking place. Prior to the Future Forum inspired amendments, GPs had already started grouping together to form GP Consortia - now to be called CCGs. There are also several reports that NHS staff, demoralised by what is seen as further top-down reorganisation, are leaving PCTs and SHAs, causing human resourcing problems several years ahead of when these two organisational layers were due to be scrapped. As these reforms have progressed through Parliament, there is a sense that the changes are happening faster “on the ground” than Parliamentarians can debate them. One cannot help but wonder what the real structure of the NHS will look like once the Bill has received Royal Assent and the official new structure is sanctioned by legislation.

Government Timeline for the changes

Planned date	Commitment
October 2011	NHS Commissioning Board established in shadow form as a special health authority
During 2012	Health Education England and the NHS Trust Development Authority are established as special health authorities, but in shadow form, without full functions
April 2012	The next step in extending the choice of Any Qualified Provider, which will be phased in gradually
By October 2012	NHS Commissioning Board is established as an independent statutory body, but initially only carries out limited functions – in particular, establishing and authorising clinical commissioning groups
October 2012	Monitor starts to take on its new regulatory functions HealthWatch England and local HealthWatch are established
1 April 2013	SHAs and PCTs are abolished and the NHS Commissioning Board takes on its full functions Health Education England takes over SHAs' responsibilities for the foundation trust pipeline and for overall governance of NHS trusts Public Health England is established A full system of CCGs is established. But the NHS Commissioning Board will only authorise groups to take on their responsibilities when they are ready
April 2014	The expectation is that the remaining NHS trusts will be authorised as foundation trusts by April 2014. But if any are not ready, they will continue to work towards FT status under new management arrangements
April 2016	Monitor's transitional powers of oversight over foundation trusts will be reviewed (except for newly authorised Foundation Trusts, where Monitor's oversight will continue until two years after the authorisation date if that is later)

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