



## ***Health and Social Care Bill: Third Reading and Report Stage Briefing***

This briefing summarises the Royal College of Surgeons views on the amended Health and Social Care Bill ahead of its Third Reading and Report stages in the House of Commons. The College supports the aims of the reforms to modernise the healthcare system by cutting bureaucracy and giving patients and their clinicians the right to decide the best treatment on an individual basis. We believe that commissioning should be based around the patient, supported by the relevant clinicians and healthcare staff.

The College has recommended that the plans laid out in the Health and Social Care Bill should now be implemented without any unnecessary delays, otherwise we believe that delays to this process will ultimately be to the detriment of patients. Below are our clause-specific comments on the Bill focussing on the areas of: commissioning, clinical advice and leadership; competition; patient choice and involvement; education and training; and research and innovation.

### **Commissioning, Clinical Advice and Leadership**

- ***Commissioning***

The College welcomes clauses **13C** and **14O** of the Bill – the duty of the NHS Commissioning Board and Clinical Commissioning Groups (CCGs) to promote the NHS Constitution – and believes that the Constitution preserves the rights of patients to be able to access treatments and services. Furthermore, given the significance of the NHS Constitution, we welcome the initiative in this clause to further promote an awareness of the Constitution amongst NHS staff, patients and the public.

The College believes that greater integration amongst health and social care professionals along the care pathway is a positive move for patients and clinicians. As such, the College has called for this to be a central element of the reforms and welcomes clauses **13M** and **14Y** and the focus on integration. We look forward to seeing more detail on these plans, and in particular how the RCS will be able to use its established regional network of surgeons across the surgical specialties to engage in these processes.

The College are supportive of efforts to improve transparency and accountability in the health service. We welcome clauses **13S**, **13T**, **14Z13** and **14Z14** which stipulate forms of reporting on the NHS Commissioning Board and CCGs through business plans and annual reports.

- ***Clinical advice***

Clinical senates, RCS regional networks and clinical networks represent a depth of clinical expertise available to the NHS Commissioning Board and CCGs. The College welcomes clauses **13J** and **14V** – the duties for NHS Commissioning Boards and CCGs to obtain appropriate advice. The College awaits further detail on the membership of the Clinical Senates; how they will be involved in advising the NHS Commissioning Board and CCGs; how they will engage with other healthcare professionals, including the Medical Royal Colleges and what precisely the responsibilities of these clinicians are. Similarly the RCS awaits further information on the embedding of clinical networks, how these

networks will be involved in advising the Commissioning Board and how the clinical issue of focus for each network will be decided.

In particular the College believes that more detail is necessary on how these various new structures will engage with each other with regard to 'sub-national' (regional) commissioning. We therefore believe that there is a case for expanding clause **12** – *Power to require the Board to commission certain health services* – for the Board to consider a wider range of services.

The College supports the amendments that the CCG membership must have a doctor with secondary care experience, however we believe that it is unnecessary that this membership should also be contingent on the doctor being from outside the local area or retired. This policy could lead to candidates with a strong understanding of local systems and patient populations being overlooked.

Additionally these new structures will require the involvement of clinicians who are already facing constraints on their working time for the wider NHS. The College reiterates the need for recognition that clinicians need to be afforded time by their employers to participate in activity outside their own organisation on behalf of the wider NHS, whether this is through Royal Colleges, Arms-length Government bodies, the Department of Health or any of these new structures. The active engagement and leadership of clinicians is at the core of these reforms and it is essential that they are given the appropriate time to perform any new functions accordingly. In addition the College believes that in establishing these structures they should be created to function in the most efficient and streamlined way possible.

### **Competition**

The College welcomes clause **58** and the change to the role of Monitor to enable health care services to be provided in an integrated way, with regard to the quality or efficiency of a service being improved without any detriment to the service's quality. The College supports clause **58** – in particular sub-section 2 – which says that long-term demands and expectations on the health service must be taken into account when considering the provision of any aspect of the health service. The College highlights its guidance on *Commissioning a competent surgical service* (Appendix A) which we believe should serve as a blueprint for the future commissioning of surgical services.

These guidelines in part highlight the need for providers to avoid 'cherry-picking' services without making full arrangements for full emergency provision at the appropriate level to manage the follow-up of patients and any complications that may arise. The College welcomes the strengthening of the legislation in Part 3, Chapter 5 of the Bill, in particular clauses **118** and **119** around ensuring the fair reimbursement to a provider for a service, taking into account clinical complexity and the range of services offered.

### **Patient choice and involvement**

As the College has consistently stated during the legislative process, a crucial part of the Health and Social Care Bill is its intention to ensure and promote patient involvement and choice. As such we welcome clauses **13H**, **13I**, **13P** and **14Z** which stipulate these responsibilities on the NHS Commissioning Board and CCGs and await additional detail. Furthermore we reiterate our belief that this principle must not be tokenistic.

Regarding the disclosure of information by a CCG (clause **14Z21**) the College welcomes this move to introduce greater transparency and looks forward to seeing further detail. Similarly the College welcomes clauses **184**, **185** and **45A** and looks forward to seeing additional detail in the secondary legislation and implementation phases.

Additionally the College has long called for the wider uptake of clinical audits in the health service and particularly in surgery. As such we welcome the principles set down around information systems in clauses **253-263** and believe that there is great scope for the wide involvement of the College and the surgical profession with these principles. In particular the College believes that with infrastructure and resource there is potential to expand the range clinical audits and the subsequent transparent publication of this information by surgeons, as part of the implementation of these reforms.

### **Education and Training**

The College welcomes the commitment to introduce a duty on the Secretary of State to maintain a system for professional education and training as part of the comprehensive health service and we look forward in seeing further detail on this at a later stage in the process of the legislation.

Education and training of surgeons is a key area of work for the College and it is essential that the funding and standards of surgical education are maintained effectively. As part of this process, the College believes that it should be involved at the centre of the governance and quality assurance processes for surgical education and training, and that similar arrangements should be made concerning the other Medical Royal Colleges for others areas of medical education and training.

### **Research and Innovation**

The College welcomes the series of commitments made towards supporting research and innovation across all levels of the new structure of the health service (Secretary of State, NHS Commissioning Board and CCG) in clauses **5, 13K, 13L, 14W** and **14X** of the legislation. We look forward to seeing further detail in the secondary legislation and to the implementation of the legislation with regard to embedding of research across the system, and supporting surgeons in the development of innovation and research in the health service.

In particular the College looks forward to more detail on how the legislation will incentivise surgical research and innovation in the NHS and on how the legislation will secure meaningful patient and public involvement in research, which will in turn help to deliver high quality, more relevant research and help to create more effective treatments for patients. Surgery differs from many other medical specialties in that the research and assessment of new innovations often require the teaching of new manual skills. Therefore there needs to be the development of infrastructure to create dedicated surgical research and assessment networks that will also aid innovation.

The College is a member of the Association of Medical Research Charities (AMRC) and fully supports the AMRC's briefing *Building Research into the Health System*, which contains more detail on the broader aspects of medical research and the Health and Social Care Bill.

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#### **For further information**

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### **Commissioning a competent surgical service College position statement**

The Royal College of Surgeons believes that a defined standard of treatment and care set by the profession should drive commissioning and not the commercial interests or convenience of the provider. Standards of care and outcome requirements should be incorporated into the decision-making process for commissioning services in order to achieve the best care and outcomes for patients. Within the proposed arrangements for the delivery of healthcare, commissioners will be able to exercise clinical judgement and have the power to safeguard and ensure the quality and standard of care.

The College believes that in order to ensure the delivery of comprehensive and competent services commissioners should adhere to the following principles and standards when taking commissioning decisions:

1. Training the healthcare workforce – a contractual commitment to training and the ability to deliver the standards and outcomes agreed and published by the profession.
2. Educating the healthcare workforce – a contractual commitment to provide appropriate education and continuing professional development opportunities for all health professionals.
3. Clinical audit – contractual agreements to ensure participation in clinical audit and publication of audit outcomes.
4. Research and development – contractual agreements to ensure participation in high quality research which is essential for advancing and improving patient care and outcomes.
5. Commissioning a complete service – ensuring the service includes arrangements for full emergency provision at the appropriate level to manage the follow-up of patients, including complications.
6. Measuring outcomes – outcomes to be measured coherently to enable comprehensive benchmarking across the NHS, with the data made available to the profession and used to inform practise and improve patient safety.
7. Appropriate impact on the local healthcare economy – when commissioning a service, a full assessment must be made of the impact of the decision on the patients’ pathway of care (i.e. ensuring that the patient will experience a seamless pathway across different providers) and the impact of the commissioning decision on related services (e.g. clinical

interdependencies) in order to safeguard patients' access. Such assessments should include a consideration of the best available evidence used to support the decisions.

The College further believes that in order to maintain these standards for quality, commissioners of healthcare should ensure providers are able to make sufficient time available in the form of Supporting Professional Activities (SPA) within the consultant contract to allow consultants wishing to be involved in training, education, audit, research etc to do so. By acting in this way commissioners will demonstrate a high degree of senior level commitment to all the elements of a clinician's role which contribute significantly to an increasingly safe and high quality health service.