

Provider regulation to support innovative and efficient services – *The Health and Social Care Act 2012*

“We are pleased to see that the government has recognised the importance of promoting integration but believe it is also important to recognise that for some services the use of choice and competition is also an essential route to deliver the best patient care” *Mike Farrar, NHS Confederation (June 2011).*

Context

1. The Government wants to see patients being able to access a range of providers who can offer services which are tailored to their particular needs. The Health and Social Care Act 2012 contains a range of measures to create an environment in which providers can flourish.

Part 3 - Monitor

2. Monitor will regulate providers of NHS services so that NHS healthcare services are operated in the best interests of patients. In exercising its functions Monitor must obtain advice from health professionals, as well as securing the involvement of patients. It must also have regard to a range of factors, including the desirability of cooperation to improve quality, and the promotion of research.
3. *Competition.* Fair and effective competition is a means to give greater choice and control to patients to access high quality care.
4. Monitor will be able to address abuses and restrictions that prevent competition and could lead to poorer care for patients. The Act does not change EU or UK competition and procurement legislation. What the Act does do is create a framework in which competition (on quality, not price) can operate, including appropriate safeguards.
5. Monitor will be a sector specific competition regulator for healthcare, allowing it to develop a bespoke approach for health. It is the Government's view this is the best way to protect patients' interests; this approach was strongly supported by the NHS Future Forum. The Bill also provides powers for the Secretary of State to make regulations on commissioners of NHS services which Monitor would enforce.
6. *Licensing.* Monitor will license providers, so there is no “free-for-all” to deliver NHS services. Through licensing conditions, Monitor would be able to prevent potentially anti-competitive behaviour and identify at an early stage if a

provider was at risk of financial distress and, insofar as legislation provided for this, require the provider to take action to address potential problems.

7. *Pricing.* Monitor, in conjunction with the NHS Commissioning Board, will regulate prices for NHS services through a national tariff. By doing so, Monitor and the Board will be able to safeguard against cherry picking, encourage efficiency (for example, through best practice tariffs) and integration (by setting tariffs for whole pathways of care).
8. *Continuity of Services.* The new continuity of services regime would enable Monitor to support commissioners securing continuity of NHS services. The Act places a duty on Monitor to establish financial mechanisms to secure continued access to NHS services.

Part 4 - NHS foundation trusts (FTs)

9. The changes will ensure that FTs are accountable, transparent and autonomous in the way they operate, so they can better support innovation and provision of high quality, locally responsive care to patients.
10. Local accountability will be increased by clarifying the roles of FT governors and directors, strengthening the governors' role in holding the directors to account, and requiring public board meetings.
11. FT autonomy will be increased, for example by the repeal of private patient income cap and completing legislation on organisational changes such as mergers, acquisitions and separations, and increasing the transparency in Secretary of State's use of powers to give financial assistance.

Factsheet B2 provides details regarding the changes to provision of NHS services within the Health and Social Care Act 2012. It is part of a wide range of factsheets on the Act, all available at: www.dh.gov.uk/healthandsocialcarebill

CASE STUDIES – AUTONOMOUS AND ACCOUNTABLE FOUNDATION TRUSTS

The Act will ensure that public NHS providers are autonomous and become more accountable and transparent in the way they operate, so they can better support innovation and the provision of high-quality, locally responsive care to patients. Examples of how NHS Foundation Trusts are today using their status and autonomy to deliver improved NHS services include:

1. Gloucestershire Hospitals NHS Foundation Trust - innovation for patients

The foundation trust has pulled off a national first in a partnership deal with a local charity to provide a mobile chemotherapy team across three counties where many residents live in isolated communities. The trust was free to make the decision when the charity approached it - proving that good ideas can happen quickly in a foundation trust. This innovation was about looking at the way the foundation trust provided services from the standpoint of the patient and then finding ways to do things differently without added bureaucracy.

2. Salisbury NHS Foundation Trust - innovation to increase resources to support NHS services

Salisbury NHS Foundation Trust set up a company, Odstock Medical Limited, to develop and market electronic devices that help disabled patients to walk by stimulating paralysed muscles. The company is the first 'spin-off' company to be created and owned by the NHS. The foundation trust holds 68 per cent of the shares, with staff and Bournemouth University also holding shares. The company is profitable and is now developing trade overseas.

3. Chesterfield Royal Hospital NHS Foundation Trust - giving a voice to patients

At this trust, governors are putting the patients' voice at the heart of their organisation. They have unfettered access to the wards and their recommendations have resulted in changes to cleaning regimes and food quality, for example. Governors have also set up a new liaison role to give practical support and privacy to vulnerable patients waiting to leave hospital.

4. Heart of England NHS Foundation Trusts - collaboration with Boots to innovate and improve access and patient experience

Heart of England NHS Foundation Trust has launched an outpatients clinic in the Solihull branch of Boots to take healthcare services into the community and give patients more choice about where they receive their treatment. The clinic provides walk-in blood testing and outpatient facilities for dermatology, children's ophthalmology, physiotherapy, and pain management. Patients see the same NHS consultants, nurses and clinical staff and receive the same high level of care as they would have at the hospital. The centre is open in the evenings and at weekends. It is cost neutral to the foundation trust because of the collaboration with Boots.

FURTHER INFORMATION

- [Securing continued access to NHS services narrative](#) published to support the amendments tabled to the Bill ahead of House of Commons Report stage (Aug 2011).