

Accountability and the new structures

A discussion paper from the GPC
and the Centre for Public Scrutiny

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NHS REFORM

Introduction

The Health and Social Care Bill will radically impact the way that healthcare, social care and health improvement are planned and delivered.¹ The Government's aims of increasing flexibility by relaxing central control and bureaucracy have potential to allow commissioners and providers to better respond to local aspirations. But for this to happen clinicians, professionals and politicians will need to listen to a range of views and respond in credible ways.

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The British Medical Association

The BMA is the independent trade union and voluntary professional association representing doctors and medical students from all branches of medicine all over the UK. We have a membership of over 140,000 worldwide. We promote the medical and allied sciences, seek to maintain the honour and interests of the medical profession and promote the achievement of high quality healthcare.



The Centre for Public Scrutiny

CfPS (an independent charity) is the leading national organisation for thought leadership and application of policy and practice around transparent, inclusive and accountable public services. We support individuals, organisations and communities to help embed our principles in to the design and delivery of public services in ways that build knowledge, skills and trust so that effective solutions are identified together.

¹ As at November 2011 the Bill remains subject to Parliamentary approval.

Why do doctors need to think about accountability?

Clinical Commissioning Groups (CCGs) will be at the heart of the new arrangements, with doctors taking on significant financial and decision-making responsibility in the commissioning process. Success of a CCG will rely considerably on the support of the constituent practices and local profession, as well as the trust of patients and the public.

Patients need to feel confident that commissioning decisions are based on sound clinical evidence and are free from vested interest. Likewise, the local profession will need to satisfy themselves that they are content with the process followed and decisions taken by their CCG on their behalf.

Systems to ensure that CCGs operate in an accountable and transparent manner are not boxes to be ticked – demonstrating the credibility of such systems will be a central element of the authorisation process for CCGs (the process by which a CCG is deemed competent to take responsibility for the commissioning budget).

This briefing provides CCGs with information about the anticipated legal framework and encourages GPs to bear this in mind in order to develop transparent, inclusive and accountable organisations.

The value of transparency, inclusiveness and accountability

The BMA and CfPS strongly urge CCGs to recognise that there is a worthwhile business case for investing in 'accountability' and supporting people who have a role to hold them to account, whether they are people who use services, the CCG's constituent practices, advocacy groups or elected representatives. Transparency, involvement and accountability need to be a central part of planning and delivering healthcare alongside quality, safety and financial management.

The benefits to CCGs of a credible approach could include:

- patients better able to make informed decisions about their treatment and care;
- primary medical services better shaped around the aspirations of patients;
- enhanced legitimacy for needs assessments, strategies and commissioning plans;
- better evidence to inform provider contracts and assessment of performance;
- more positive process for service reconfiguration.



What do we mean by transparency, inclusiveness and accountability?

Changing culture and building relationships requires a shared understanding of language. 'Transparency', 'inclusiveness' and 'accountability' are often interpreted in different ways. A shared understanding can help decision makers and those holding them to account to build constructive relationships and avoid confusion.

TRANSPARENCY

Transparency is not restricted to publishing historic spending information. It is about providing a range of information in ways that people can easily understand and interpret. It is also about being clear how organisations are run and how people can influence strategic direction and operational performance. Contextual information gives people a powerful tool to help them have a say about how health and care services work and how they respond to people's needs and aspirations. Other ways to describe 'transparency' could be 'openness' or 'honesty'.

INCLUSIVENESS

Inclusiveness is not restricted to meeting legal duties to involve. It is about using a range of ways for different people and groups to have their voices heard and for their views to be listened to, understood and responded to in credible ways. Being inclusive means being open to hearing different views about how to improve people's health, improve the services they use or tackle inequalities. Other ways to describe 'inclusion' could be 'shared decision making' or 'co-production'.

ACCOUNTABILITY

Accountability is not restricted to formal authorisation and assessment. Accountability is about allowing others to make informed judgements about credibility. Accountability is as much about celebrating success as analysing failure. Safety, quality and financial management will always be at the heart of accountability. Working in transparent and inclusive ways will help provide assurance that organisations are 'good to do business with'.

The structures holding CCGs to account:

A 'web' of accountability?

Accountability for commissioning will come in a range of ways and through a number of channels. Some are expected to be defined by the Bill, for example through the NHS Commissioning Board, Health and Wellbeing Boards and overview and scrutiny. But some may not be immediately apparent, for example through lay people on CCG Boards and through local Healthwatch.

Accountability to the local profession and practices is fundamental to the structure and functioning of a CCG. CCGs need to engage with Local Medical Committees, as the statutory representatives of GPs, to ensure that all constituent practices have equal opportunity to be involved in their CCG, are involved in the election of CCG officials and are kept informed and involved in the work of the CCG.

NHS Commissioning Board (NHSCB)



the Board will support clinical commissioning groups and hold them to account whilst ensuring they have the freedom to deliver improvements in outcomes for their local populations in a clinically led and bottom up way”².

Sir David Nicholson

The NHS Commissioning Board will play a role in holding CCGs to account for quality standards. The Board will retain responsibility for commissioning a number of services including specialised services and primary care.

The NHSCB will be responsible for authorising CCGs, the process by which formal responsibility for the commissioning budget is handed to commissioning groups.

In order to achieve authorisation, CCGs will be required to demonstrate capability across six specified domains³. These domains include the need for CCGs to be able to provide evidence of “clear and credible plans” (which reflect joint health and wellbeing strategies), robust constitutional and governance arrangements and collaboration with others involved in commissioning, including the NHSCB and local authorities.

² *Developing the NHS Commissioning Board*, available at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_128118

³ *Developing Clinical Commissioning Groups: Towards Authorisation*, available at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_130293

The NHSCB will seek evidence from CCGs (for instance internal documents such as the commissioning plan and constitution) and will also ask Health and Wellbeing Boards for their view on a CCG's suitability for authorisation.

As part of the authorisation process, CCGs will undertake a risk assessment that will consider, amongst other factors, the size of the CCG and the support the CCG will have access to. It is important that CCGs are of sufficient size, or able to work with neighbouring CCGs, to ensure that robust governance and accountability arrangements can be properly resourced.

There is a risk that CCG accountability may become over complicated and bureaucratic. The process of authorisation will be streamlined if, from the outset, CCGs are engaged with the bodies that they will have an accountability relationship with.

Health and Wellbeing Boards

Health and Wellbeing Boards will be the place where CCGs, councillors and others agree about the health and care needs of people in their area (through Joint Strategic Needs Assessments – JSNAs) and on ways those needs will be met (through Joint Health and Wellbeing Strategies – JHWSs). CCGs and social care commissioners will need to publish commissioning plans that reflect JSNAs and JHWSs.

Councillors on Boards will enhance legitimacy of decisions about healthcare, social care and health improvement but they will not provide formal accountability. This is because Health and Wellbeing Boards cannot hold themselves to account for how they work and what they achieve. Health and Wellbeing Boards as a whole will be accountable for the realism of JSNAs and the ambition of their JHWSs. Boards may find a number of people and groups 'holding them account' – for example overview and scrutiny committees, local Healthwatch, the NHS Commissioning Board.

Although the Boards will not be able to 'veto' CCG commissioning plans, the Bill provides for Boards to write to the NHS Commissioning Board if they consider CCGs are not properly reflecting the JHWS. CCGs and other partners on the Board might usefully consider developing an independent local mechanism for dealing with this kind of situation (for example through overview and scrutiny) before resorting to formal referral to a central body.

Further BMA guidance on Health and Wellbeing Boards and how these bodies relate to CCGs can be found here on the [BMA's NHS reforms webpages](#).

Overview and Scrutiny

Councillors on scrutiny committees have a unique democratic mandate to act across the whole health economy, using pathways of care to hear views from across the system, examining priorities and funding decisions across an area to help tackle inequalities and identify opportunities for integrating services.

The current 'health scrutiny' powers represent the strongest model of democratic accountability in public services. They enable councillors to engage with commissioners, providers and patients and the public across primary, acute and tertiary care. The statutory powers that health overview and scrutiny committees currently have in relation to SHAs, PCTs and NHS Trusts (to get information, attendance of officials at meetings, get responses to recommendations for improvement and refer contested service changes) have proved a powerful lever for change across the country. Under the terms of the Bill, councillors would be able to hold their political leadership to account in respect of the strengthened co-ordination role but this 'internal accountability' will be matched by extending 'external accountability' over commissioners (and all providers).

Local Healthwatch

Local Healthwatch will take forward the existing activities of Local Involvement Networks across healthcare and social care. They will help people navigate services and may provide complaints advocacy. As members of Health and Wellbeing Boards they will be collectively responsible with CCGs, councils and others for agreed JSNAs and JHWSs. They will be an important mechanism for gathering and presenting a range of views to CCGs and others about what people who use services and the public think about services and how they want to see things changed or improved.



Further Guidance

CfPS has developed the **'Accountability Works for You' framework** to help CCGs think about culture and values and to demonstrate their commitment to transparency, inclusiveness and accountability in every aspect of the commissioning cycle.

BMA Guidance for GPs and other doctors involved in CCGs can be found on the **BMA NHS reforms webpages**. Amongst other issues, this guidance addresses issues of transparency and probity, the governance of CCGs and Health and Wellbeing Boards.

