



**North West Anglia**  
NHS Foundation Trust

# PUBLIC BOARD MEETING

## HEALTH & CARE BILL

10 August 2021

**Taff Gidi**  
Company Secretary & Head of Corporate Affairs

**Paul Denton**  
Deputy Company Secretary & Head of Risk



# Background

- The Health and Care Bill was given its first reading in Parliament on 6 July 2021.



- Once enacted, it will bring into effect the proposals outlined in the white paper *Working together to improve health and social care for all* (DHSC, Feb 2021).

# Overview

- The majority of the Bill focuses on developing system working with integrated care systems (ICSs) being put on a statutory footing.
- The Bill formally merges NHS England and NHS Improvement.
- The Bill also provides the Secretary of State with a range of powers over NHS national bodies and local systems and trusts.
- Other measures include:
  - Healthcare Safety Investigation Branch (HSIB) to be placed on a statutory footing.
  - New legal power to make payments directly to social care providers.
  - Development of a new procurement regime for the NHS.
  - New duty on the Secretary of State to report on workforce responsibilities.



# NHS Providers Concerns Regarding Bill

- Providers have a number of concerns regarding the Health & Care Bill as articulated below:
  - Trusts and Foundation Trusts retain their accountability for the delivery of safe care which presents challenges for system working.
  - Allocation of resources from ICS to individual organisations e.g. decisions on capital funding.
  - How the ICS works along side ICPs and other system partners in service of local needs.
  - The government has not yet set out how any new powers of direction for ministers over the NHS would operate vs independence from political interference.
  - Clarity on ministerial powers over local reconfigurations.
- We will review once the final bill receives Royal Assent if any of these issues have been



# Integrated Care Boards (ICBs)

- The Bill allows the establishment of ICBs and the abolition of CCG's:
  - Each area of England to be covered by one ICB
  - There is no requirement for ICBs to be co-terminus with local authorities
  - NHS England will publish a list of areas to be covered by each ICB.
  - Property, rights and liabilities will be transferred from CCGs to ICBs
  - Staff will transfer under TUPE regulations
- We anticipate that the Cambridgeshire & Peterborough ICB will maintain the same boundaries as the current CCG.
- The ICBs function is to arrange for the:

*Provision of services for the purpose of the health service in England*

- Effectively this means commissioning services (including primary care) for the area covered by the ICB.
- NHS England will be able to delegate some of its functions to ICBs.



# Governance

Each ICB will consist of:

- Chair (appointed by NHS England) – recruitment is ongoing
- Chief Executive (appointed by the chair with approval of NHS England) – recruitment is ongoing
- At least three other members (approved by the chair)
- Ordinary members must include:
  - One member jointly nominated by NHS provider organisations that provide services in the ICB area;
  - One member jointly nominated by Primary Medical Services that provide services in the ICB area; and
  - One member jointly nominated by the local authorities whose areas include all or part of the ICBs area
- NHS England will conduct an annual performance assessment of each ICB.
- The Bill sets out a failure regime for ICBs.



# Finance

- Each year the ICB and associated NHS Trusts and NHS Foundation Trusts must prepare:
  - Five year forward plan
  - Capital plan (period of cover to be directed by the Secretary of State)
  - Plans to be shared with the Integrated Care Partnerships (ICP) for each area.
  - The forward plan is subject to consultation
- ICBs will have to contain expenditure in line with limits set by NHS England.
- NHS England may also set joint financial objectives for ICBs and their partner NHS Trusts and Foundation Trusts.
- NHS Trusts and Foundation Trusts may be able to be members of more than one ICB (subject to further guidance).
- ICBs will prepare an annual report and accounts.



# Integrated Care Partnerships (ICPs)

- An Integrated Care Partnership (ICP) must be established as a joint committee of every ICB with those local authorities that fall into the area covered by the ICB. The ICP will be made up of:
  - One member appointed by the ICB
  - One member appointed by each of the responsible local authorities
  - Any members appointed by the ICP



# NHS England

- NHS England will be officially called NHS England (its current legal name is the NHS Commissioning Board).
- NHS Improvement, Monitor and the Trust Development Authority (TDA) will cease to exist and their functions will transfer to NHS England.
- NHS England will have to ensure that total capital resource and total revenue resource incurred by NHS England, ICBs, NHS Trusts and NHS Foundation Trusts does not exceed the limits specified by the Secretary of State.



# NHS Foundation Trusts

- Individual NHS Foundation Trusts and NHS Trusts will continue to exist and continue to retain statutory accountability. In essence, this will likely mean that there will be limited change in the statutory responsibilities or directors of NHS Trusts.
- NHS England can make an order imposing a limit on the capital expenditure of an NHS Foundation Trust.
- The statutory requirements for the preparation of NHS Foundation Trusts' forward plans have been removed to allow NHS England to direct the content.
- NHS Foundation Trusts will have a new power to work jointly with any other person.



# Integration with Local Authorities

- NHS England, ICBs, NHS Trusts and Foundation Trusts will be able to arrange for any of their functions to be exercised by, or jointly with, any of these bodies as well as a local authority or a combined authority.
- Where these arrangements are in place, the function may be exercised by a joint committee with the ability to establish and maintain a pooled fund.



# Procurement and Competition

- New regulations will be set out on how health care is to be procured.
- The role of the Competition and Markets Authority (CMA) will be reduced.
- NHS Trusts will be exempt from merger legislation.



# ‘Triple Aim’

- All NHS bodies will have a new statutory duty to ‘have regard to the wider effect of decisions’ when making decisions about the exercise of the body’s functions, regard must be taken ‘to all likely effects of the decision in relation to’
  - Health and well being of the people of England;
  - Quality of healthcare services; and
  - Efficient and sustainable use of resources.



# NHS Payment Scheme

- The national tariff will be replaced by the NHS payment scheme.
- NHS England will publish a document containing the rules for determining the price that is payable by a commissioner for the provision of services.
- The rules will allow for or require local agreement of prices.
- NHS England will undertake a consultation process with all ICBs and provider bodies.



# Information Governance

- The Bill introduces new arrangements for the sharing of anonymous information for the purposes related to the functions of health in England.
- There will be a new offence in relation to information disclosure that could result in imprisonment and/or a fine.



# Health Services Safety Investigations Board (HSSIB)

A new body will be established to investigate incidents that occur in England during the provision of health services and have, or may have, implications for the safety of patients.



## Other Changes

- An amendment of the current rules regarding patient choice to make it a requirement that patients can have choice with respect to the services offered to them.
- A new duty for the Secretary of State to report on workforce systems every 5 years.
- The abolition of committees of HEE called local education and training boards.

