



## NHS England consultation Implementing the NHS Long Term Plan: Proposals for legislative change - Neurological Alliance response

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[MANDATORY]

**Should the law be changed to prioritise integration and collaboration in the NHS through the changes we recommend?**

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

[OPTIONAL]

### 1. Promoting collaboration

• Do you agree with our proposals to remove the Competition and Markets Authority's functions to review mergers involving NHS foundation trusts?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

• Do you agree with our proposals to remove NHS Improvement's powers to enforce competition?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

• Do you agree with our proposals to remove the need for contested National Tariff provisions or licence conditions to be referred to the CMA?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

### 2. Getting better value for the NHS

• Do you agree with our proposals to free up procurement rules including revoking section 75 of the Health and Social Care Act 2012 and giving NHS commissioners more freedom to determine when a procurement process is needed, subject to a new best value test?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

### 3. Increasing the flexibility of national payment systems

• Do you agree with our proposals to increase the flexibility of the national NHS payments system?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

### 4. Integrating Care provision

• Do you agree that it should be possible to establish new NHS trusts to deliver integrated care?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

### 5. Managing the NHS's resources better

• Do you agree that there should be targeted powers to direct mergers or acquisitions involving NHS foundation trusts in specific circumstances where there is clear patient benefit?

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree



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• Do you agree that it should be possible to set annual capital spending limits for NHS foundation trusts?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

## 6. Every part of the NHS working together

• Do you agree that CCGs and NHS providers be able to create joint decision-making committees to support integrated care systems (ICSs)?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

• Do you agree that the nurse and secondary care doctor on CCG governing bodies be able to come from local providers?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

• Do you agree that there should be greater flexibility for CCGs and NHS providers to make joint appointments?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

## 7. Shared responsibility for the NHS

• Do you agree that NHS commissioners and providers should have a shared duty to promote the 'triple aim' of better health for everyone, better care for all patients and to use NHS resources efficiently?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

## 8. Planning our services together

• Do you agree that it should be easier for NHS England and CCGs to work together to commission care?  
Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

## 9. Joined-up National leadership

• Which of these options to join up national leadership do you prefer?

a) combine NHS England and NHS Improvement

b) provide flexibility for NHS England and NHS Improvement to work more closely together

c) neither of the above

• Do you agree that the Secretary of State should have power to transfer, or require delegation of, ALB functions to other ALBs, and create new functions of ALBs, with appropriate safeguards

Strongly Disagree/Disagree/Neutral/Agree/Strongly Agree

## [Optional] Detailed comments

**If you have any specific comments or additional information to provide, please provide in the relevant text box.**

### 1. Promoting collaboration. This includes the following proposals:

a. Remove the Competition and Markets Authority (CMA) function to review mergers involving NHS foundation trusts

b. Remove NHS Improvement's competition powers and its general duty to prevent anti-competitive behaviour

c. Remove the need for NHS Improvement to refer contested licence conditions or



Potential hospital mergers must be weighed up carefully by all organisations involved to ensure that any hospital merger ensures improvements to patient care and hospital capacity in addition to/alongside any potential cost savings to be made. It is also important that there is clear and planned involvement of patients in the process of potential mergers, allowing them to shape their own services, and to improve plans through additional insights that patient involvement results in. It is also important to minimise disruption to people's care with potential changeover of health professionals. This is particularly important for people living with long-term neurological conditions who often build strong relationships with their health professionals, resulting in better, more personalised, care.

### **2. Getting better value for the NHS. This includes the following proposals:**

- a. Revoke regulations made under section 75 of the Health and Social Care Act 2012 and repeal powers in primary legislation under which they are made, subject to a new best value test
- b. Remove arrangements between NHS commissioners and NHS providers from the scope of the Public Contracts Regulations, subject to a new best value test

Further detail on the 'best value test' is needed - this must value the delivery of safe and effective care, and patient choice, and be developed in consultation with key stakeholders and shared for consultation before being adopted.

### **3. Increasing the flexibility of national NHS payment systems. This includes the following proposals:**

- a. Remove the power to apply to NHS Improvement to make local modifications to tariff prices, once ICSs are fully developed
- b. Enable the national tariff to include prices for 'section 7A' public health services
- c. Enable national prices to be set as a formula rather than a fixed value, so prices can reflect local factors
- d. Enable national prices to be applied only in specified circumstances
- e. Enable selected adjustments to tariff provisions to be made within a tariff period (subject to consultation)

We are broadly supportive of the proposal to increase the flexibility of national NHS payment systems. However, we do have some concerns about the potential for unintended consequences. Most items of care that need to be paid for within neurology are not unbundled from the national tariff, or form part of block contracts. Therefore, moving away from episodes of care could make it even harder to get an understanding of what is going on, for those interested in the national picture. We suggest that there is a need for checks and balances in the system. This could help avoid a situation where non priority areas under the Long Term Plan, such as neurology, 'disappear' altogether.

It is important for clear national guidance on certain tariffs to be used. An example is the current tariff available for telemedicine. The tariff payment is too low and discourages Trusts from offering telemedicine clinics that could benefit people with neurological conditions who may struggle to attend a clinic appointment in person.

### **4. Integrating care provision. Enable the Secretary of State to set up new NHS**



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trusts to provide integrated care.

People with neurological conditions often need to access services across acute and elective care, community-based support and primary care, mental health, and social care. We're therefore in favour of initiatives that enable more integrated working. We note that the 2015 [National Audit Office neurology report](#) even proposed mandating joint health and social care commissioning of neurological services through the commissioning outcomes framework (CCGOIS). Enabling the creation of new NHS organisations that exist solely for the purposes of providing integrated care makes good sense and provides an opportunity for improved provision of neurology services and better patient pathways.

It is important that the creation of integrated care trusts is done in partnership with patients, particularly those living with long-term conditions who will be using the service over a long time period.

## **5. Managing the NHS's resources better. This includes the following proposals:**

- a. Give NHS Improvement targeted powers to direct mergers involving NHS foundation trusts, in specific circumstances only, where there are clear patient benefits
- b. Give NHS Improvement powers to set annual capital spending limits for NHS foundation trusts

Regarding the power to direct mergers, we are broadly in favour but would caution the need to ensure that this really is used in specific circumstances only, where there are clear patient benefits. These specific circumstances need to be carefully thought out, especially if forcing a merger goes against what local providers, commissioners, patients and partners may want. Moreover, assessing the patient benefits must include an assessment of the benefits for all patients. There is a risk that where smaller community providers, who might be doing very well on a non-Long Term Plan priority area such as neurology, are forced to merge, this excellence could get lost.

## **6. Every part of the NHS working together. This includes the following proposals:**

- a. Enable CCGs and NHS providers to create joint committees
- b. Give NHS England powers to set guidance on the formation and governance of joint committees and the decisions that could appropriately be delegated to them
- c. Allow the designated nurse and secondary care doctor appointed to CCG governing bodies to be clinicians who work for local providers
- d. Enable CCGs and NHS providers to make joint appointments

We are broadly in favour of proposals that enable different parts of the NHS to work better together, as we believe this has a tangible positive impact on patient care and patients' experiences of their care.

In order for every part of the healthcare system to be able to work together, we believe that it is important that joint committees are transparent and that there is a public record of who is on the committee, and how to contact them. This is because it can be important for patient groups to be able to have an interface with these committees. We note that lay committee members are not mentioned in this chapter, and nor are Health Watches. We urge NHS England to ensure full consideration of measures to ensure strong patient voice inclusion.



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The Long Term Plan stated that every ICS will have “a non-executive chair ... and arrangements for involving non-executive members of boards/governing bodies.” There is a need to tighten up plans on these arrangements, to ensure non-exec/lay representation on ICS boards where decisions are made in order for patient voice to provide effective challenge, scrutiny and assurance of those decisions. An assured seat at the table is needed for this. Anything that falls short of this e.g. including a reference group or organisational board would be insufficient.

## **7. Shared responsibility for the NHS. Create a new shared duty for all NHS organisations to promote the ‘triple aim’ of better health for everyone, better care for all patients, and efficient use of NHS resources, both for their local system and for the wider NHS**

We support the use of this triple aim. However, we believe the proposal needs to be strengthened. ‘Promoting’ the triple aim is weak, will not ensure its implementation. We believe measures are needed to ensure accountability, and to measure progress, with consequences for non-compliance. We want to see an NHS that delivers better care for all patients, including those who are not identified in the Long Term Plan as being a priority group.

## **8. Planning our services together. This includes the following proposals:**

- a. Enable groups of CCGs to collaborate to arrange services for their combined populations
- b. Allow CCGs to carry out delegated functions, as if they were their own, to avoid the issue of ‘double delegation’
- c. Enable groups of CCGs to use joint and lead commissioner arrangements to make decisions and pool funds across all their functions
- d. Enable NHS England to jointly commission with CCGs the specific services currently commissioned under the section 7A agreement, or to delegate the commissioning of these services to groups of CCGs
- e. Enable NHS England to enter into formal joint commissioning arrangements with CCGs for specialised services

Neurological conditions are often complex and long-term, with specialist input frequently needed for correct diagnosis and multi-disciplinary input needed for post-diagnostic care. Some aspects of patient care are therefore specialised while others are not, and others still are managed in primary care. Any formal joint commissioning should in theory help to join up patients’ care journeys. Similarly, any mechanisms that can help to ensure that the right multi-disciplinary service provision is in place in the first place, to prevent patient crises from occurring, resulting in avoidable A&E visits and preventable hospital stays, are desirable.

We have some concerns around NHS England entering into formal joint commissioning arrangements with CCGs for specialised services specialised services – given that in neurology there has been significant confusion about who is responsible for commissioning what. It must be crystal clear if this goes ahead who is responsible for what and how it will work in practice. It must also be on the basis that this is the best way of providing a service to better serve the population, and mustn’t result in deteriorating service provision.

According to the latest estimates, there are now over 75,000 neurological cases per Clinical Commissioning Group ([Neuro Numbers 2019](#)). While this is significant, the numbers of



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people with individual neurological conditions – each requiring different treatment pathways - are necessarily much smaller. Enabling groups of CCGs to make decisions and pool funds across all their functions could enable better provision for people with neurological conditions, enabling service provision which is not feasible on a smaller scale.

**9. Joined up national leadership. This includes the following proposals:**

- a. Bring NHS England and NHS Improvement together more closely, either by combining the organisations or providing more flexibility for them to work closely together
- b. Enable wider collaboration between ALBs [arms length bodies]

We support the plans to join up leadership, in the hope that this will better enable different parts of the NHS to work better together. We are aware of a number of different national programmes that are not working together. However we would add that this is not restricted to the divide between different bodies – too often NHS England doesn't appear to work well with itself. More coordination and collaboration within and across bodies is needed. However we do not have strong feelings on how this is best achieved.

**Beyond what you've outlined above, are there any aspects of this engagement document you feel have an impact on equality considerations?**

**Other comments?**

Regarding question 9: Joined-up National leadership, and whether we prefer

- a) combine NHS England and NHS Improvement
- b) provide flexibility for NHS England and NHS Improvement to work more closely together:
  - We don't have strong feelings either way, so long as they are working well together.