

Refreshing the Mandate to NHS England: 2014–2015

The Government's Mandate to NHS England is a key document. Its purpose is to dictate how the NHS is accountable to Parliament, and therefore the public. During summer 2013 the Government consulted on its proposed update to the first Mandate it published in November 2012 (the closing date was Friday 27 September 2013). Its consultation document, *Refreshing the Mandate to NHS England: 2014–2015*, proposes to update the NHS Mandate for 2014-15 following some important recent developments, such as Robert Francis QC's report into care failings at Mid-Staffordshire NHS Foundation Trust. This Nuffield Trust briefing responds to the key questions outlined in the Government's consultation. Related Nuffield Trust analysis on the Coalition Government's health and social care reforms is available at: <http://www.nuffieldtrust.org.uk/our-work/nhs-reform>

Key Points

- The original objective behind the creation of NHS England as an independent body was to create some stability for the NHS to pursue and achieve high level objectives without interference, particularly in the form of new policy initiatives that emerge from ministers. The mandate was also designed to set out the broad objectives for the NHS, leaving NHS England and its commissioners free to decide what specific policies will best meet these objectives. In this way, the reformed NHS was designed to be free of an arbitrary, target-drive culture that was characterised as undermining and distorting local clinical practice.
- While we understand that it is now a legal obligation for the Secretary of State for Health to publish a mandate every year to ensure that NHS England's objectives remain up to date, the proposals contained in this consultation contain a significant number of objectives for NHS England to fulfil. This suggests that the relationship between the Department of Health and NHS England may be developing in a different way from that envisaged in the NHS Health and Social Care Act (2012).

- We agree that it makes sense for the mandate to collate and reflect the most recent developments in health policy that relate to NHS England's high level objectives. However, many of the changes suggested in this document are highly specific in terms of what needs to change, and when the change needs to happen. Other suggested changes, meanwhile, are lacking in detail, about how progress might be measured and over what time period.
- We are therefore concerned that this variability in the proposed changes may result in a lack of clarity about what is to be prioritised by NHS England or, more importantly, may result in the prioritising of those which have time-sensitive, measurable objectives over those that do not.
- More broadly, the experience of the past months since the original mandate was agreed suggests that ministerial energy in devising and implementing new objectives for the NHS is undimmed. This raises questions about the robustness of the logic and institutional arrangements behind the reforms, which merits further reflection by government.

Introduction

This Nuffield Trust briefing responds to many, but not all, of the key questions outlined in the Government's consultation document: *Refreshing the Mandate to NHS England: 2014–2015*. Our responses to those questions are outlined below.

What views do you have on the proposed approach to refreshing the Mandate?

The majority of proposed updates to the mandate consist of instructions to NHS England to support initiatives developed in 2012/13 by the Department of Health, sometimes working with external review teams and with the regulatory bodies. For example, responding to the Francis Inquiry Report and pressures on A&E departments, as well as the development of new integration initiatives and strategies for vulnerable older people.

This approach makes some sense if the mandate is to move towards being a summary of an ongoing process of joint work between the Department of Health, NHS England and other bodies. However, it has potential to cause confusion at commissioner level as there are also other initiatives underway from NHS England (for example, the Call to Action) and the need for commissioners to respond to guidance from Monitor.

It is noteworthy that the suggested updates vary widely in the timescale over which they would require NHS England to take action, from a few months in the case of supporting the A&E plan to around five years in the case of supporting pooled health and social care budgets. This suggests a possibility that the mandate may be serving to cement a range of disparate commitments which might be better expressed in differing forms.

The Department of Health should be clear and realistic about the extent to which mandates in the future will be a guide to medium-term priorities, in order to provide NHS England with enough forward guidance to plan complex reform and investment.

What views do you have on assessing NHS England's progress to date against the objectives?

From an external perspective, it is not clear where a comprehensive guide to NHS England's progress against the existing objectives can be found. This would be useful.

What views do you have on the proposal to help people live well for longer?

It is difficult to appraise this objective (specifying progress in terms of avoiding 10,000 excess deaths by 2018) without any accompanying detail. Is this a target that will be easily met (i.e. maintaining the current trend)? How has it been set? Paragraphs 18 and 19 suggest the government has 'expectations' about how this target might be met. But what is the appropriate balance between investment in upstream prevention through public health initiatives and investment in secondary prevention?

What views do you have on using the refreshed Mandate to reflect the plans to strengthen A&E services?

What are these plans? We feel that it would have been helpful to specify them in this consultation, to enable a more considered response.

What views do you have on the proposal to reflect NHS England's ambition to diagnose and support two-thirds of the estimated number of people with dementia in England?

Better diagnosis of dementia is important. But it is equally important that the Department of Health and NHS England maintain the momentum on specifying what constitutes the best available care for patients with a dementia diagnosis, and develop measures to capture this, along with robust patient-reported outcome measures to assess the quality of care from a patient (and carer) perspective.

What views do you have on updating the Mandate to make it a priority for NHS England to focus on mental health crisis intervention as part of putting mental health on a par with physical health? What views do you have on the proposals to ask NHS England to take forward action around new access and / or waiting time standards for mental health services and IAPT services?

An update giving an objective to bring mental health crisis intervention to parity with physical health would be laudable in intent, but lacks a timescale, which may mean that commissioners are more likely to focus on meeting the IAPT (Improving Access to Psychological Therapies programme) waiting time requirements specified alongside it.

What views do you have on the ambitions and expectations for the vulnerable older people's plan?

It would have been helpful to make the vulnerable older people's plan available for scrutiny alongside this consultation.

Some of the measures referred to in the consultation (better online access to GPs and the potential of the GP choice pilot for example) look as though they are aimed at meeting the needs of younger adults. Other suggestions, such as the creation of a named accountable clinician, have potential to make an impact on the care of vulnerable older people. However, thought will need to be given to how this will be measured in practice. There is a risk that it could be reduced to a tick-box response (similar to the presence or absence of a care plan), while the ability of a clinician to be actively intervening on behalf of a patient might be harder to establish.

We are also concerned that such a proposal may inhibit innovation. The Department of Health should look closely at whether a single clinician in primary care is best suited to a named accountable role across different services. As the document notes, deep structural and historical factors in health and social care continue to inhibit joint work, information sharing, and co-ordinated care. In this context, any process of holding single clinicians accountable for care across institutions should be sensitive to the limitations of their influence over other bodies, and the support they will require from the broader system at every level. The inclusion of this in the updated mandate carries a risk of restricting the opportunity for commissioners and primary care providers to explore alternative mechanisms for managing co-ordination.

What views do you have on updating the Mandate to reflect the Francis inquiry and the review of Winterbourne View hospital?

We agree that the mandate should reflect the findings of the Francis Inquiry and the review of Winterbourne view, but it would be helpful to know what specific actions are expected of NHS England, by when. Many of the recommendations of the Francis Inquiry call for a change of culture and mindset within healthcare providers and commissioners. Without some clear expectations of demonstrating changed behaviour,

there is a risk that the calls for genuinely patient-centred care become hollow statements of purpose.

What views do you have on updating the objective to reflect NHS England's role in supporting person centred and coordinated care?

We note that work is underway to specify the measures of progress (and pay for performance) for those areas qualifying for Integration Transition Funds. It would be helpful for the Department of Health to report on these as soon as possible. Proposals include setting precise objectives as qualifying criteria (such as seven day working, use of NHS number across health and social care settings) and measures of progress or pay for performance (access to reablement, reductions in delayed discharges) that will shape the action and behaviour of both providers and commissioners. Will these be included in subsequent mandates?

What views do you have on updating the existing objective to reflect the challenge for NHS England to introduce the 'friends and family test' to general practice and community and mental health services by the end of December 2014 and the rest of NHS funded services by the end of March 2015?

The Friends and Family test has the potential to assist providers of all kinds of health care to improve their services. However, it is important that NHS England and the Department of Health have some mechanisms to explore whether providers are actively using this data to improve their services, rather than simply rely on data on the roll out of the tool as an indicator of progress in embedding genuine responsiveness to patients' voices.

Before the test is rolled out further, it would be useful to resolve issues around the differences in the way NHS trusts currently implement the test. This has resulted in genuine comparisons between providers based on the data being unreliable. In addition, it would be useful to have independent checks on how the data is collated. It is also important to address the low response rates that some providers have experienced so far.

What views do you have on the proposals to make better use of resources?

There is a lack of hard evidence on the number of people visiting the UK primarily to receive medical treatment, and on the cost to the NHS. The Government should provide robust evidence that any measures taken to ensure foreign patients pay for care will make net savings once the cost of implementation is taken into account. There should also be reflection on any impact on the way in which medical professionals work and the relationship between doctor and patient. We welcome the Government's intention to carry out an assessment of the situation, and urge them to demonstrate that their response is based on evidence and consultation with professional bodies.

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