

Briefing

Health and Care Bill briefing: consideration of amendments

The King's Fund supports the main thrust of the Health and Care Bill which will remove clunky competition rules and enable greater collaboration between health and care organisations to deliver integrated care. We also support the permissive approach that will allow local areas to decide how they best work together to meet the needs of their communities. Government amendments in the House of Lords to ensure that tackling health inequalities is central to the 'triple aim' that will guide NHS decision-making are also very welcome.

This briefing focuses on three key improvements to the Bill made in the House of Lords.

Health and care workforce

Years of poor planning, weak policy and fragmented responsibilities for the workforce mean that staff shortages have become endemic. The health and care workforce crisis will be the rate-limiting factor in reducing the NHS elective care backlog and delivering the ambitions behind the reforms in this Bill.

Alongside [more than 100 organisations](#), The King's Fund has called for the Bill to be strengthened by mandating the regular, biannual publication of independently verified workforce projections. [The Health and Social Care Committee](#) has also recommended that the Bill include a requirement for objective, transparent and independent reporting on workforce shortages and future staffing requirements. To this end a new clause was tabled by the chair of the Health and Social Care Committee at Report stage in the House of Commons and while it was not successful at that time, it did receive considerable support from across the House. The same clause was passed in the House of Lords and has been added to the Bill (Clause 41).

Ministers have rejected the need for such projections, pointing to a planned update to 'Framework 15', Health Education England's 15-year strategic framework for workforce planning. This is inadequate for these purposes. Previous iterations of the framework first published in 2014 and [2017](#) have not quantified the workforce numbers needed, and the Secretary of State was recently [unable to confirm that the revised framework will include workforce projections](#).

We urge Members of Parliament not to reverse this amendment and to support the regular publication of independently verified projections of future demand and supply of the health and social care workforce in England.

Cap on social care costs

At Report stage in the House of Commons, the government introduced a new clause to amend the Care Act 2014 to fundamentally change the cap-and-floor model of social care funding enshrined in the Act. The change is regressive and at odds with the government's ambition of 'levelling up'. Despite criticism from across the House, the clause was passed with a reduced majority for the government. We were pleased to see it removed by the House of Lords.

The change as it stood meant that any local authority contribution towards paying for a person's care would no longer count towards the cap on their total costs. This would have left poorer people exposed to the same social care costs as the very wealthiest in society, leaving many of them at risk of ultimately having to sell their home to fund their care, despite the government manifesto commitment that no-one would be forced to do this.

The government argues that it cannot afford to accept this amendment as the change saves £900 million a year from 2027/28. However, the saving it generates for HM Treasury happens because poorer older people, [those living in the North East, Yorkshire and Humber and the Midlands](#), and working-age adults will now be required to pay more towards the costs of their care than under the original proposal.

To ensure those people with low to moderate assets are protected from very high care costs and to honour the Prime Minister's promise that no-one should be forced to sell their home to pay for their care, we urge Members of Parliament to accept this change.

Secretary of State powers to intervene in local service reconfigurations

The House of Lords voted to remove the sweeping powers proposed for the Secretary of State to intervene earlier in decisions about changes to local services from the Bill. These powers would have exposed ministers to lobbying to override NHS clinical and operational decisions, introducing the risk of political calculations trumping clinical judgement and a potential decision-making log jam.

Ministers have argued that these new powers are necessary to ensure democratic oversight of health service decisions. However, the existing system allows appropriate democratic oversight and for contentious service change decisions to be resolved. The wholesale upheaval of this system and introduction of these powers for the Secretary of State is not justified.

We welcome the removal of these powers from the Bill and hope that this decision is upheld by the House of Commons to avoid the unhelpful politicisation of local service-change decisions.

Secretary of State powers to direct NHS England

Since the 2012 reforms, the scope of NHS England's work has increased significantly, and with so much decision-making now concentrated in NHS England, we do not disagree about the need for a power of direction or appropriate powers to match the political responsibility the Secretary of State has for health and care services (and the public expectations that comes with). However, we do not think this power should extend to intervening in NHS England's operational independence. This swings the pendulum too far in the other direction.

While amendments to the Secretary of State's powers to direct NHS England (Clause 45) were not forthcoming at Report stage in the Lords, we welcomed Lord Kamall's assurances that 'it is inappropriate for the Secretary of State to be involved in individual procurement decisions. That is not the motive behind this power, and it is not the way it would be used. The regulation-making power inserted by [then] Clause 70 prevents the Secretary of State being able to use this direction-making power to direct NHS England'.

And on the allocation of resources to the integrated care boards that 'the government have no ambition to use this power to interfere with individual allocations of money to the system. It will not be used to interfere with the independent Advisory Committee on Resource Allocation... We have attached safeguards to this power to make sure it is not misused. Any exercise of this power must be done transparently: it must be made in writing, be published and be made in the public interest. This will enable parliament to challenge ministers and hold them to account.'

To protect NHS England's operational and clinical independence, these assurances should be formalised.

Conclusion

The King's Fund believes the Bill is stronger for the inclusion of a requirement to publish health and care workforce projections, the removal of the regressive change to the cap on social care costs and the exclusion of powers for the Secretary of State that risked the unhelpful politicisation of local service-change decisions.

About The King's Fund

The King's Fund is an independent charity working to improve health and care in England. We help to shape policy and practice through research and analysis; develop

individuals, teams and organisations; promote understanding of the health and social care system; and bring people together to learn, share knowledge and debate. Our vision is that the best possible health and care is available to all.

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