

Keep our NHS Public - Briefing for councillors

Sweeping changes to the NHS have now come into force. As well as new responsibilities regarding public health, councillors have some opportunity to use existing Scrutiny arrangements and the new Health & Wellbeing Boards, to reflect constituents concerns about the NHS changes and to try and protect health services, and to highlight any issues publicly.

1. Councillors have no *direct* power over Clinical Commissioning Groups, although there are ways that councillors can increase their oversight of CCGs via the Health & Wellbeing Board and Scrutiny arrangements. It is important for councillors to use these powers effectively.
2. Many constituents will be aware that campaigners including 38 Degrees have been trying to get the CCG to improve the democratic safeguards in their constitution. Councillors are probably best off focusing on improving the democratic safeguards that the councils themselves have more direct control over.
3. A key demand from campaigners is that CCGs should not offer services to the private sector without consulting the public first (and ideally, commit to this in their constitution). Given the current debate about the Section 75 (NHS Privatisation) Regulations, it is unclear how possible this is. It is certainly desirable, as current requirements on consultation are weak. Councillors should push for such clauses, in the interests of helping the public to have proper input into significant health decisions (both through their elected councillors, and directly). Councillors who wish to prevent health privatisation can argue strongly (particularly via Health Overview and Scrutiny Committees) that decisions to invite private sector bids, are significant and warrant full public consultation before being taken.
4. Under regulations made under the Health & Social Care Act 2012, the government has weakened the requirements for local councils to have Health Overview and Scrutiny Committees. In future, councils will have to provide a scrutiny role but not necessarily through such a committee. Councillors should defend HOSCs which have been a useful check on bad decision making.
5. The government has also made it more difficult for the council Scrutiny function to refer matters to the Secretary of State, excluding decisions made on certain grounds (including Trusts going into administration). There are also moves afoot to set additional hurdles like full council votes, stricter time limits, and additional stages to go through first. Councillors should watch out for such moves and oppose them strongly and vocally where necessary.
6. Councillors can and should demand information from the CCG. In particular, councillors can ask:
 - a. **which services are the CCG considering for review/potential change of provider in the near to medium future, whether through tendering or Any Qualified Provider.** NOTE - these are two slightly different processes, with AQP it's a process that gets private providers on a kind of shopping list for patients. Councillors would have to be very insistent and try and pin down detail on which services have been / are to be scoped / reviewed, what was the outcome of that review, how are decisions being taken about next steps, what stage is the process at (eg internal scoping, improvement plan, consideration of offering to alternative providers, expressions of interest, tender / AQP? To help focus questioning,

via HOSC)? How will the councils ensure there is space for discussion of these matters? Will HWB councillors also commit to feeding back to the public, and via the HOSC? How will the HWB determine that claims by providers of projected service improvement/cost savings, are correct and not unsubstantiated? Will HWB councillors have access to auditors? How will the HWB determine public involvement in future – **will it commit in its strategy to consulting the public before tendering or restructuring service provision?** (NOTE – just saying ‘we’ll do the legal minimum’ is not good enough). Will the public be able to have some say over who is on the HWB?

8. Councillors should familiarise themselves with their H&WB strategy, and any options for its revision. It is a concern if such strategies focus excessively on **‘personal responsibility’, ‘co-production’, or ‘asset based approaches’**, which sounds empowering but could be code for cutting services. Such a focus individualises a problem, and places a greater burden on carers, patients (especially poor/vulnerable ones). It could be used as a justification for co-payment (ie charging fees).
9. Health & Wellbeing Boards are obliged to have regard to health inequalities. Councillors should be alert to strategies that appear to pay lip-service to inequalities. Such lip service is no replacement for a proper statement of collective responsibility for health, risk pooling, ie the principles the NHS was built on.
10. The other area that councillors are likely to have power on, is via **joint commissioning/health & social care integration**. It would be good to ask the HWB people (including CCG chair) what the approach is on joint commissioning and what work is underway or has been produced. Given that the pressures on local government (in terms of cuts and privatisation) are even worse than those on the NHS, such moves could in fact be a real Trojan horse for the NHS.

Further information is available here <http://healthandcare.dh.gov.uk/hwbs-health-scrutiny-regulations-2013/>