Health and Care Bill 2021: Briefing Pack for Councillors in Greater Manchester

A. Main Objections to the Health and Care Bill

The Bill is not just another 'reorganisation' of the NHS. It will not solve any of the problems the NHS faces because it doesn't address them: widespread staff shortages and lack of a workforce plan to recruit, retain and train sufficient staff; long term underfunding as a result of austerity measures since 2010; lack of parity for mental health services; no plan for public health. And it will distract from efforts to rebuild the NHS, while it is still dealing with the Covid pandemic. Perhaps most of all, the new Integrated Care structures will accelerate the ever increasing control which the private sector has over the NHS – the development and management of systems to run the NHS as well as more and more NHS funded services being contracted to the private sector.

This is not the wholesale selling off of the NHS, but it is the increasing privatisation of healthcare.

B. Parliamentary Process

The Health and Care Bill had its first and second reading in July 2021, went through Commons Committee stage September to November, had its Report stage and Third Reading in early November, and is now going through the Lords.

The Labour Party is opposing the Bill in Parliament. During the Commons Committee stage, they proposed over 160 amendments, to try and remove some of the worst aspects of the Bill. Not one of them was agreed. Some similar amendments will be introduced during the Lords stages, but again are unlikely to be agreed.

Some Tory amendments have been agreed. The most significant two are:

1. In response to widespread criticism about the possible involvement of private sector representatives on IC Boards, the Tories brought in a very weak amendment, which will still mean it is possible for private sector reps not only to be on the IC Board, but certainly does not exclude them from the IC Partnership body nor from any advisory, strategic / policy or budget holding Committees:
   "the constitution must prohibit a person from appointing someone as a member ("the candidate") if they consider that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise."

2. Clause 49 was added in the Commons (now Clause 140 in the Lords), to include the Social Care cap. This was passed in the Commons, but with a much reduced majority for the Tories (because of many abstentions). It is possible that this Clause will be amended or even rejected during the Lords stages, which would mean further time would have to be spent on it when it returns to the Commons. This could cause delay in the Bill being passed, and therefore to its formal implementation.

C. Integrated Care Systems

The Health and Care Bill will finalise plans to introduce Integrated Care Systems to the NHS, carving England into about 40 Integrated Care Systems (ICSs) covering populations of 2-3 million people. ICSs are modelled on the Accountable Care Systems in the United States, and are in line with requirements of large health provider companies and health insurance companies to gain even greater access to the NHS. For years these companies have had their promoters in positions of influence (such as Simon Stevens, formerly President of

Global Health at United Health Group, until recently was head of NHSE, previously an adviser to Tony Blair, and now in the Lords; and Samantha Jones, formerly Chief Executive of Operose Health (whose parent company is Centene) which has taken over GP practices in London, used to work at NHSE, and is now a health advisor to Boris Johnson.)

People like Simon Stevens and management consultants like McKinsey have been involved in numerous reports and plans – the essence of which have been to cut expensive hospital services, find ways of rationing care, encourage use of digital and technology rather than face to face consultations with staff, and encourage people to do self care.

ICSs will be cash limited on a tight budget controlled by NHS England. This is likely to mean that they have to make cuts to services - including closing hospitals and cutting services – and/or ration the services available, thereby reducing patients' access to the care they need. Depending on the decisions each ICS makes there will be a postcode lottery of what services patients can expect to get – there will no longer be a national entitlement to a full range of services.

It is also very uncertain whether and how people will be able to get treatment in an emergency if they are away from home, as it is not specified that *everyone present* within an area will be entitled to receive emergency / urgent services. At the very least, there may be wrangles as to who pays for such services. This is particularly likely to affect migrants, homeless people, people who move frequently, as they may not be registered to receive treatment within the ICS where they are currently living.

It is also unclear to what extent ICSs will be accountable to local people and to local authorities, which will lose many of their scrutiny powers including the right to oppose local NHS service reductions and closures. Decision making about local NHS services will be even more remote, centralised and unaccountable.

D. No End to Private Sector Involvement

The Bill will not reduce privatisation. It will simply replace a regulated market with an **unregulated** market. Abolition of competitive tendering and the public contracts regulations will mean that NHS contracts will no longer have to be tendered but can just be handed out to any contractor, regardless of their track record or reliability, as happened with the billions of pounds worth of contracts dished out to incompetent and wasteful companies, without competition, during the Covid pandemic.

E. Threats to staff and trade union organisation

As staff costs are the most significant call on the budget, given the tight budget controls, ICSs are likely to be under pressure to cut those costs. They may be able to set their own pay, terms and conditions for NHS staff, undermining national pay agreements and making it even more difficult to recruit and retain staff. At the least, they might try to create jobs on lower bands but doing virtually the same work as current staff.

NHSE guidance mentions "inclusive employment models, workforce sharing arrangements and passporting or accreditation systems" to enable the workforce to be "deployed at different sites and organisations across (and beyond) the system, sharing practical tools to support agile and flexible working". This will be a nightmare for staff, and make it harder to organise.

F. Greater Manchester Governance Proposals

These were agreed by the GM Health and Care Board in September 2021, but it is not clear whether that is a final decision and/or whether these proposals are actually the GM ICS Constitution. They specify the function and membership of:

IC Board: the main decision making body, with only 12 members – including just one person to represent all 10 GM councils – it will meet 8 times a year.

IC Partnership body which will set priorities and is where the local council representatives – one for each borough – will participate; but it will only meet 4 times a year. Private sector representatives will be members of this body – unless we raise strong objections.

Joint Planning and Delivery Committee: membership will include representatives from the 10 GM councils; its role is to ensure Locality programmes and provider programmes work coherently with GM enabling programmes; it will meet monthly. It is now operating in shadow form.

Shared Executive Group of 'key executive leaders'. This will meet weekly, and membership will be 'fluid' depending on issues. It won't be a formal decision making group, but clearly will be influential as it will set the agenda for the IC Board, Partnership and Committee meetings, and will 'ensure coherence' in the implementation of strategy and in 'fix' programmes which are underperforming.

Locality Leadership Boards, one in each of the 10 boroughs, will set local priorities, be responsible for aligning NHS and social care spending, and will allocate budgets to local providers.

Provider Collaboratives will probably become increasingly important, and have a role in resource allocation to each NHS Trust. It's not clear whether private providers will be included in the collaboratives, and therefore be involved in allocating funding. It's also not clear whether mental health services and primary care services will be included in the Provider Collaboratives; even if they are, the PCs are likely to be dominated by urgent and elective care providers (Acute Trusts).

G. The Role of Local Councillors

What can you, as a local councillor do – to question (challenge) what is happening in GM?

Greater Manchester Unite Community Branch (GM UCB) and Greater Manchester Keep Our NHS Public (GM KONP) are contacting members throughout Greater Manchester to ask them to raise questions and issues with their Ward Councillors. These are the points we are asking them to raise, in the expectation that this will give you the opportunity to raise them with those councillors involved in the Greater Manchester ICS development and on your local Health Scrutiny Committees.

G.1. Governance Proposals / ICS Constitution for Greater Manchester – Essential Points and Demands

Greater Manchester KONP are very grateful to Calderdale and Kirklees 999 Call for the NHS (CK999) for making available their response to the consultation on the West Yorkshire ICS constitution. We have based a number of our points and demands on CK999's work, which is available at:
https://calderdaleandkirklees999callforthenhs.wordpress.com/2021/12/02/responding-to-draft-integrated-care-board-constitution-public-consultations/

The ICS Constitution for Greater Manchester must include the following points:

1. Provision of a comprehensive health service

The IC Board must commit to arranging for the provision of a comprehensive health service, publicly funded and publicly provided, free at the point of need and use, accessible to anyone present in any part of Greater Manchester (whether current resident or not) at the

time and place of their clinical need for health care. (Currently the Health and Care Bill does not legislate for this.)

2. IC Board and ICS Bodies' Membership

The IC Board membership must include public representatives, a councillor from each local authority (not just 1 to represent all 10 GM local authorities), Trade Union representatives, a Social Care representative (though not from a private sector organisation) and representatives from Acute Health Services, Mental Health Services, Primary Care Services, Community Health Services, Public Health, NHS Dentistry and NHS maternity services.

The following providers must be **ineligible** for membership of the IC Board or any of the ICS bodies (Health and Care Partnership, Joint Planning and Delivery Committee, Shared Executive Group, Locality Boards/Alliances, Provider Collaboratives):

- Private sector providers, or potential providers, of NHS funded health services, including those providing elective or urgent care and treatment services under any sort of block or specific contract
- Voluntary and Community Social Enterprise organisations which are providing NHS funded health services
- Alternative Provider of Medical Services contract holders
- Providers of GP services that are members of superpartnerships and providers of GP services that are owned by large corporations

3. IC Board and ICS Bodies' Meetings

Meetings of any ICS body must be held in public and allow questions and petitions from the public, which will be included in Minutes together with the responses.

Papers for any meetings must be available at least 7 days before the meeting.

Minutes must be accessible and available as soon as possible after a meeting, if necessary in draft form.

4. The ICS Plan

The public must be consulted in a meaningful way (that is, not just by focus groups or 'box-ticking' exercises) on the content, monitoring and review of the ICS plan. The plan should be an accurate, current, readily accessible and understandable source of public information about Greater Manchester NHS and social care services.

5. Contracts and Service Providers

According to the Health and Care Bill, contracts can be rolled over/extended, awarded without a competitive tender, awarded though a competitive tender, or commissioned on an Any Qualified Provider basis. In Greater Manchester, the Constitution must make clear that the IC Board will commission NHS and social care services using a provider selection regime, in order to:

- maximise accountability and transparency
- maximise the award of NHS contracts to NHS providers
- as contracts currently held by the private sector come up for renewal, the default position should be that those contracts will be awarded to NHS providers
- prioritise service quality, improvement of NHS and social care staff working conditions and terms of employment, improvement of health outcomes and reduction of health inequalities

If Provider Collaboratives have the power to commission any services, they must follow the same provider selection regime.

6. Workforce
The Constitution must specify that a Workforce Committee of the IC Board will work locally, regionally and nationally to improve the recruitment and retention of NHS and social care staff. Its purpose will be to fill identified workforce gaps; carry out any necessary further assessment of local staffing needs in the short, medium and long-term; and ensure adequate training, recruitment and retention measures to fulfil these requirements.

G.2. Provision of Comprehensive Health Service – further points and demands for Labour Groups to consider

1. Will your Labour Group campaign within the Greater Manchester ICS to ensure there is access to a full and comprehensive range of NHS services for all residents in the borough and for anyone not normally resident in the borough according to their need for health care; and that any proposed changes to local services will be subject to oversight by your council's Health Scrutiny Committee?

2. Will you and your Labour Group campaign to ensure that the Integrated Health and Care Partnership on which a borough representative will sit will be empowered to challenge Integrated Care Board plans which do not meet local needs?

3. Will you and your Labour Group campaign to ensure all funding allocations to places and providers and all major decisions over expenditure by the GM IC Board will be transparent, fair, and subject to democratic challenge via the Integrated Health and Care Partnership?

4. Can you and will you campaign to ensure all meetings of the Integrated Care Board and the Integrated Health and Care Partnership are held in public and webcast and that all papers are readily available? What is your party's policy on this issue?

5. Will you and your Labour Group councillor colleagues oppose private sector involvement in all NHS decision making bodies within the Greater Manchester ICS?

6. Will your Labour Group of councillors work to ensure that NHS providers are the default providers of health services, care and treatment, and that as contracts with private sector companies come up for renewal the default position is that they will be awarded to NHS providers? If any contracts continue to be awarded to the private sector, there must be vigorous scrutiny to ensure that this is conducted in a transparent and accountable manner.

7. Will you and your Labour Group of councillors campaign to ensure that all business of the IC Board is conducted in an open and transparent way and is subject to the Freedom of Information Act? In addition will your Labour Group campaign to ensure issues of "commercial confidentiality" are not used to obstruct public access to information surrounding decisions made by the IC Board?

8. Will you and your Labour Group of councillors campaign to ensure that the main Integrated Care Board includes representatives of professionals from Mental Health, Community Health, Primary Care and Public Health, as well as from Acute services?

9. Will you and your Labour Group of councillors campaign to ensure that the main Integrated Care Board also includes representatives of patient groups and health care trade unions?

10. Section 78 of the Health and Care Bill 2021 would repeal Section 74 of Care Act 2014 that requires each patient's needs to be assessed before they are discharged from Hospital. This effectively supports a policy known as "Discharge to Assess", which would result in vulnerable patients being discharged from hospital without a detailed assessment of needs. The responsibility for the assessment of their immediate and future care needs would fall upon families, community, primary care services and social care services that are already over stretched and underfunded. This will place these patients at increased risk of harm.

11. Can you outline what is your Labour Group of councillors' policy in response to the 'Discharge to Assess' policy? What will you and your party do to oppose this policy and what steps will your party take to mitigate the risks to patients who are subject to this policy, such as campaigning for adequate staffing to enable care needs assessments to be made before people are discharged from hospital?

12. What action will your Labour Group initiate to protect NHS workers' pay, terms and conditions of work, and to improve pay, terms and conditions for social care staff? In particular, will you support the establishment of a Workforce Committee of the IC Board, which will work to improve recruitment and retention of NHS and social care staff? Such a Committee would identify workforce gaps, carry out assessment of local staffing needs, and ensure adequate training, recruitment and retention measures to fulfil these requirements.

H. Documents

KONP leaflets:
Oppose the Health and Care Bill (summary of the main provisions of the Bill):
https://keepournhspublic.com/product/a4-leaflet-oppose-the-health-and-care-bill-2021/
Bad News for NHS Workers (leaflet aimed at health staff)
https://keepournhspublic.com/product/ics-leaflet-staff/
NHS Plans: Bad News for Patients (leaflet aimed at patients / the public)
https://keepournhspublic.com/product/ics-leaflet-patients/

The Guardian, Allyson Pollock and Peter Roderick, 7 December 2021: ***If you believe in a public NHS, the new health and care bill should set off alarm bells***
https://www.theguardian.com/commentisfree/2021/dec/07/public-nhs-the-new-health-and-care-bill-alarm-bells-privatisation

OpenDemocracy, Caroline Molloy, 7 December 2021: ***Why can't the UK government explain what its Health and Care Bill will actually achieve?***
https://www.opendemocracy.net/en/ournhs/why-cant-the-uk-government-explain-what-its-health-bill-will-actually-achieve/

Public Matters Briefing: NHS Bill, May 2021 Written before the Bill was published, a good summary of what has been happening to the NHS: "This briefing is designed to provide to elected representatives at all levels a broader view of the changes that have taken place in the NHS in England under Simon Stevens' leadership since 2014 than is usual both in the media and in policy circles. These changes, already put in place, will be confirmed in legislation."
https:// publicmatters.org.uk/wp-content/uploads/2021/05/Public-Matters-BRIEFING-NHS-BILL-FINAL.pdf

Consortium News, Stewart Player and Bob Gill, 6 December 2021: *US Empire seizes UK's National Health Service.* Although this article perhaps over-emphasises how quickly

the ‘Americanisation’ of the NHS might happen, nevertheless it provides useful information about the growing power of US corporations within the NHS.
https://consortiumnews.com/2021/12/06/us-empire-seizes-uks-national-health-service/

Centre for Policy Studies, Karl Williams, 5 September 2021: ***Is Manchester Greater? A New Analysis of NHS Integration.*** A **summary** of a detailed research report on the impact / effectiveness of Integrated Care Systems, focusing on Greater Manchester: “the research could not identify a single target set out in Manchester’s own plan that the devolved system was on course to meet before the pandemic struck.” They called on the government to drop plans for legislation on ICSs until there is a better evidence base.
https://cps.org.uk/media/post/2021/new-analysis-of-nhs-integration-model-finds-no-evidence-it-is-improving-outcomes/
The **full report** is available at: https:// cps.org.uk/research/is-manchester-greater-a-new-analysis-of-nhs-integration/

Taking Charge is working in Greater Manchester, May 2020: Despite claims that Greater Manchester was achieving its devolution objectives, the graphs in this report mainly show that Greater Manchester is NOT closing the gap in comparison with figures for England except in a few target areas (such as smoking, school readiness for the most disadvantaged children, some mental health services such as referral for children to eating disorder services).
https:// www.gmhsc.org.uk/wp-content/uploads/2020/03/Taking-Charge-is-Working-in-Greater-Manchester.pdf

Health Service Journal 4 October 2021, Interview with Professor Luger (CEO of Northern Care Alliance): particularly see the last section, ‘Learning from the US’. It is of concern that a CEO of an NHS organisation should be so much in favour of the US model of health care and of making partnerships with the private sector, in the UK and in the US, and sees private health insurance as an important part of the future of the NHS. [see Appendix]
GM KONP press release in response to Professor Luger’s opinions [see Appendix]

I. Further Information

KONP website: www.keepournhspublic.com

openDemocracy website: www.opendemocracy.net/en/

The Lowdown website: https://lowdownnhs.info In particular, there is a series of articles on A History of Privatisation: https:// lowdownnhs.info/?s=history+of+privatisation

Appendix

Health Service Journal 4 October 2021, Extract, Interview with Professor Luger and **GM KONP press release in response**

Extract from: Neighbouring acute trusts work to dampen 'rivalry'

By Lawrence Dunhill Health Service Journal 4 October 2021

Learning from the US

Professor Luger spent the bulk of his career at the University of North Carolina, as a professor of economics, public policy, and business.

Although he said "there's a lot the NHS can learn about what not do to" from the US health system, he said the NCA is forming a partnership with his former employer, which is linked to the state-owned health provider, University of North Carolina Health.

He said: "It's as similar to the NCA as you're going to find in America, because there's a lot of public money in it, as well as private insurance money. It's a multi-site organisation, with 11 hospitals involved in the group and it serves some very deprived populations.

"So, we're going to learn from them. They have some real partnerships with private providers, so we want to learn from them how they operate, what the pitfalls are, and what some of the funding challenges are in that blended model of public money through Medicare and Medicaid and private insurance money.

"That's also a direction that England is moving in as well, not to an insurance system, but a system where more and more of the public will have some private healthcare insurance. We can't close our eyes to that, we have to figure out what that means for us.

"So, we'll look at building more corporate and commercial partnerships, being careful to keep control, as we recognise the importance of the NHS as a national service. But there are certainly areas where we can engage more."

He cited the deal the trust has already struck with Hitachi for a digital control centre, and also spoke of scaling up the trust's fundraising through its charity.

He added: "The US health systems do a whole lot more than we do in England [in terms of fundraising] and there's lessons we can learn from that.

"We're making some investment in our NorthCare Charity and fundraising arm and we'll continue to do that, making sure the return is sufficient."

Press release from Greater Manchester Keep Our NHS Public in response to HSJ interview with Professor Luger 27th October 2021

Comments from Hospitals' Trust chief reveal 'a nightmare vision of the future of our NHS', says NHS campaign group

A spokesperson for campaign group, Greater Manchester Keep Our NHS Public, Caroline Bedale, has said that comments made by a senior leader of a local NHS hospital trust have alarmed the group's members and reveal 'a nightmare vision of the future of our NHS'.

Professor Michael Luger is Chair of the Northern Care Alliance NHS Foundation Trust, which has been formed from a merger of hospital trusts in Salford, Rochdale, Oldham and Bury. Professor Luger is a former Dean of Manchester Business School and he chaired Airedale NHS Foundation Trust for three years from 2014 to 2017. Born in the USA, he has spent the bulk of his career at the University of North Carolina, as a professor of economics, public policy, and business. His remarks which have sparked the controversy were reported, earlier this month, in the Health Service Journal.

“Alarming warning of clinical job cuts”

In the HSJ article. Professor Luger outlined proposals for a new contract for hiring new consultants. He said, “it means we don’t have to duplicate things, we don’t have to have four different consultants in four different places, we could have one or two that can move around in a way that is much more efficient.”

Caroline Bedale replied, “Reducing numbers of NHS staff is the last thing that the NHS needs at a time when there are thousands of unfilled vacancies, and staff are already overburdened, burnt out, facing the additional burdens of winter flu, a covid pandemic, and a backlog of patients requiring medical interventions.”

Partnership with American former employer and corporate and commercial partnerships

Professor Luger also revealed that the NCA Trust is forming a partnership with his American former employer, which is linked to a state-owned health care provider, University of North Carolina Health. He states, “We’re going to learn from them. They have some real partnerships with private providers, so we want to learn from them how they operate ….”; “… we’ll look at building more corporate and commercial partnerships”, he indicated.

The article reported that the Professor had cited a deal the Trust has already struck with Hitachi, for a digital control centre.

He went on to suggest that “England is moving in a direction where more and more of the public will have some private healthcare insurance” and that, “We can’t close our eyes to that, we have to figure out what that means for us.”

After suggesting similarities between the NCA Trust and the North Carolina organisation which, “serves some very deprived populations”, Professor Luger concluded his interview by speaking of further lessons that can be learned, about stepping up the role of charitable fundraising.

Caroline Bedale responded to Professor Luger’s suggestions, saying: “Keep Our NHS Public is currently campaigning against the Government’s Health and Care Bill 2021 and the ideas of Professor Luger prefigure many of the changes which that legislation is proposing and which we believe are a very serious threat to the NHS as a national health service giving publicly funded and publicly provided universal/ comprehensive health care in which care and treatment is free of charge, dependent only upon the patient’s need.”

“Although Professor Luger did say ‘there’s a lot the NHS can learn about what **not** do to from the US health system’, he contradicted this by championing the NCA's partnership with his former employer; embracing an increasing take up in the UK of private health insurance on the one hand and charitable fundraising for provision for deprived communities on the other; and welcoming increased commercial involvement in NHS provision.”

“When the dangers in the Government’s Health and Care Bill are accompanied by the occupancy of a very senior NHS leadership position by a person with ideas for future health reform like Professor Luger’s, it is deeply alarming.”

“The NHS is in serious jeopardy and we reiterate our call to defend it, repeating the foresightful words of its founder, Nye Bevan – “The NHS will last as long as there are folk left with faith to fight for it!”

Ends

Notes for Editors

1) GM KONP contact Caroline Bedale, c.bedale@btinternet.com; 07960 988596
2) The comments from Professor Luger are published in ‘Neighbouring acute trusts work to dampen rivalry’, Health Service Journal, 4 October 2021, https://www.hsj.co.uk/greater-manchester-ics/neighbouring-acute-trusts-work-to-dampen-rivalry/7031012.article