

Health White Paper “Equity and Excellence: Liberating the NHS” FTN Member Briefing - Monday 12 July 2010

1. The Coalition’s health White Paper “Equity and Excellence: Liberating the NHS” was published today. It can be accessed here:
<http://www.dh.gov.uk/en/Publichealth/LiberatingtheNHS/index.htm>
2. The issues impacting on NHS foundation trusts are considered first, with the key issues identified that we see requiring clarification.
3. It is noted that a consultation paper has been announced, to be issued shortly, on issues affecting NHS foundation trusts and economic regulation, to which the FTN will respond after a full programme of engagement with members. Further, there will be a whole range of appendices which will go into more detail on the proposals contained within the White Paper: we do not yet know when these will be issued.
4. Wider system policy announcements from the White Paper are signposted in appendix 1. These focus on implementing the three main principles of patient engagement, clinical empowerment and outcomes.
5. The FTN Press Release is attached hereto as appendix 2.

NHS Foundation trusts

6. In paragraph 4.20-1 the White Paper states a commitment to the founding principles of NHS foundation trusts, to “free them from the constraints they are under, in line with their original conception, so they can innovate to improve care for patients”. There is also an explicit statement that NHS foundation trusts will not be privatised. The FTN welcomes this affirmation of the freedoms of foundation trusts.
7. At 4.21 it suggests new governance models being explored for FTs, specifically giving the example of an employee-led social enterprise FT model for community services. Governance has been one of the great successes of the FT model and we welcome this greater flexibility in respect of governance structures so that they are appropriate to the services delivered; the FTN considers however that it is in the public interest, where an NHS foundation trust is stewarding assets, for accountability to be to all their stakeholders; therefore the choice of model will essentially be contingent on the existence of endowed assets.
8. At paragraph 4.22 it:
 - Proposes removal of the Private Patient Income Cap (PPIC);
 - Proposes enabling FTs to merge more easily;
 - Asks whether we should enable foundation trusts to tailor their governance arrangements to their local needs.

9. The removal of the private patient income cap is a most welcome step and reflects sustained lobbying by the Foundation Trust Network; this will give foundation trusts the freedom to attract additional resources into the NHS at a time of economic crisis, in order to improve services for patients and to innovate.
10. The FTN considers that mergers are only one option available to NHS foundation trusts in responding to future challenges and that joint ventures, alliances, federations and other models of co-operation may well be more appropriate.

The Pipeline

11. At 4.23 it is suggested that the government will support all trusts to become NHS foundation trusts within three years, through a new unit in the Department of Health. We welcome this certainty in determining the future of aspirant NHS foundation trusts.

Community Services

12. At paragraph 4.24 it says in respect of community services that

We will complete the separation of commissioning from provision by April 2011 and move as soon as possible to an “any willing provider” approach for community services, reducing barriers to entry by new suppliers.

Monitor, CQC and regulation

13. From April 2013, Monitor will take on the responsibility of regulating all providers of NHS care, irrespective of their status. Financial control will be maintained during the transition, with the Department, Monitor and SHAs taking any necessary steps.
14. Paragraph 4.27 states that providers will have a joint licence overseen by both Monitor and CQC, to maintain essential levels of safety and quality and ensure continuity of essential services.
15. Monitor will promote competition, regulate price and support continuity of services. It will have levers available to it to ensure essential services are maintained.
16. We will be seeking member views on all these issues in short course.

Workforce issues

17. Providers of healthcare services will pay to meet the costs of education and training (paragraph 4.33).
18. Pay decisions should be led by healthcare employers rather than imposed by government (paragraph 4.35).
19. The FTN is continuing its existing dialogue with relevant parties on the future direction of workforce policy.

De-authorisation

20. Paragraph 6.7 confirms that legislation providing for de-authorisation of NHS foundation trusts will be repealed.

Issues to Resolve

21. The White Paper sets out a direction of travel for increased marketisation in the service. One way of achieving this that has been part of recent discourse is to remove Foundation Trust Assets from the public balance sheet; however there is yet no way of achieving this and there are a number of difficult issues to deal with before solutions can be found. These include:
- What the access to capital will be and where will it come from. No decision has been made about foundation Trusts having access to public capital. The current assumption inside the DH seems to be that they will continue to have such access in proportion to the level of public service obligation they take on, but this is not clear.
 - What a failure regime will look like and how far the Secretary of State will stand behind the assets.
 - How the assets for which Foundation trusts are responsible will be overseen in a regime in which Monitor, in its new role as economic regulator will have too great a conflict of interest where it to retain responsibility for these. We believe DH is beginning to understand that the placement of Foundation Trusts has to change and need to find an appropriate mechanism for doing this.
 - In the Foundation Trust pipeline the suggestion is that there is a drop dead date of 2014 and elsewhere in the White Paper a reference to making mergers easier, which suggest that a transactions strategy will be adopted towards remaining NHS providers who do not make it to Foundation Trust status. We have sought and received some re-assurance that there will be no lowering of the bar but this requires further clarification.
 - How the model for determining workforce issues will be developed and what it will look like.
 - How Monitor will exercise its power to force risk pooling on essential services.
22. **FTN has already set up meetings in August with the DH teams and members will receive invitations to get involved in these to work through the detail of the policy solutions to these issues.**

FTN

12 July 2010

Appendix 1: Other announcements relevant to NHS foundation trusts (paragraph numbers in brackets)

Patient Choice & Information

1. Patients will have choice not only of any provider but also of consultant teams by April 2011– This will require significant extension of information into the public domain. (2.20)
2. Information on performance and outcomes will be significantly increased. (2.5 to 2.17)
3. Patients will be enabled to rate hospitals and clinical departments. (2.8)
4. Clinical teams to have risk adjusted assessment of their performance against peers and this to be in public domain. (2.9)
5. The NHS will begin to introduce choice of treatment and provider in MH services from April 2011. (2.8)
6. The NHS will begin to introduce choice of diagnostic testing and choice post diagnosis from April 2011. (2.8)
7. There will be a consultation on the introduction of choice of treatment which might include new contractual requirements on providers. (2.8)

Payment, services and contracts

8. Providers will be paid according to their performance, payment should reflect outcomes and have incentive for better quality
9. They will develop more comprehensive payment for performance – conditional on achieving quality goals. This will extend CQUIN scope and value and include the wider use of PROMS, best practice tariffs and patient experience data (3.19/3.20)
10. Providers will be under clear contractual obligations, with sanctions, in relation to accuracy and timeliness of data.
11. Structure of payment for services will be the responsibility of the commissioning board and Monitor will be the economic regulator responsible for pricing (3.17)
12. Prices will be calculated on the basis of the most efficient, high quality care not average cost.(5.12)
13. NICE will produce over 150 standards for all main pathways of care. These will be reflected in contracts.(3.12)
14. National and regional specialised services commissioning will be the responsibility of the commissioning Board, not GP consortia. (4.11)
15. Providers of essential services may be required to take part in risk pooling arrangements, which will enable Monitor to step in to keep essential services running should a provider become financially unsustainable. Monitor will also be able to allow transparent subsidies where agreed with commissioners. (5.14)

Employment and staff issues

16. All providers of healthcare services will pay to meet the costs of education and training.
17. Employers and staff will agree plans and funding for workforce development and training with the NHS Commissioning Board providing oversight of providers funding plans nationally and GP consortia providing oversight at local level (4.33)

Regulation

18. They will undertake a wide-ranging review of all health and social care regulation, with a view to making significant reductions (5.10)
19. Based on information from local HealthWatch (successor to LINKS) the national Healthwatch body will have powers to propose CQC investigations of services. (2.26)
20. DH will revise and extend quality accounts to all providers from 2011 and will ensure that nationally comparable information is published within these. (2.9)

Appendix 2: FTN Press Release

FTN welcomes new freedoms to innovate and improve services for patients

The Foundation Trust Network welcomes the new freedoms for foundation trusts to innovate to improve services for patients outlined in the White Paper, in particular the greater scope for mergers, joint working and other innovative ways of working; and the abolition of the Private Patient Income Cap.

The FTN has been lobbying for an end to the Private Patient Income Cap which has restricted foundation trusts' ability to offer additional services and attract additional resources into the NHS at a time of economic crisis.

However, the transition to the new national health system will not be easy. We look forward to working with the Coalition Government to address and clarify outstanding issues of detail on the future nature of public assets and access to capital, the nature of the failure regime and overcoming conflicts of interest in the new regulatory environment – all issues that remain of concern to foundation trusts.

Sue Slipman, Director of the Foundation Trust Network said:

“It is now time for foundation trusts to exercise their freedoms to the full for the benefit of patients. Foundation trusts will play a key role in working with all providers to manage strategic responsibilities in the new health service including planning and developing the workforce; governance and leadership; and quality and safety.”

ENDS

Notes for editors

1. The Foundation Trust Network (FTN) represents existing foundation trusts as well as acute, mental health, ambulance and community sectors preparing for foundation status. It was established in June 2004 to represent the views of foundation trusts, to influence health policy and to share learning and good practice. The Network is hosted by the NHS Confederation which represents more than 95% of the organisations that make up the NHS including the majority of NHS acute trusts, ambulance trusts, foundation trusts, mental health trusts and primary care trusts.
2. There are currently 130 foundation trusts.
3. FTs were set a Private Patient Income Cap at the time of authorisation related to the proportion of private patient activity they were carrying out in the 'base year' - 2002/3. All mental health foundation trusts originally had a cap of zero, but that is now 1.5 %. For FTs with a private patient income cap, this ranges from 0.1% to the highly untypical figure of 30.7%, but is more commonly under 2% of revenue.
4. Contact FTN Media Relations Officer Vivien Goldsmith on 020 7074 3267 or 07545 211173. For out of hours media enquiries, please call the Duty Press Officer on 07880 500726.