

## Health and Care Bill

### House of Commons consideration of Lords message, 25 April

NHS Providers is the membership organisation for the NHS hospital, mental health, community and ambulance services that treat patients and service users in the NHS. We help those NHS foundation trusts and trusts to deliver high-quality, patient-focused care by enabling them to learn from each other, acting as their public voice and helping shape the system in which they operate.

NHS Providers has all trusts in England in voluntary membership, collectively accounting for £104bn of annual expenditure and employing 1.2 million staff.

The majority of the Health and Care Bill (the Bill) is focused on developing system working, with integrated care systems (ICSs) being put on a statutory footing. It also formally merges NHS England and NHS Improvement (NHSE/I), and makes changes relating to public health, social care and patient safety. We support the opportunity the Bill presents to design the right system architecture that will deliver sustainable, high-quality care for the future.

NHS Providers has commented extensively on the Bill since its publication. Our briefings and written evidence to date can be found [here](#). This briefing looks specifically at the issues of service reconfiguration and workforce planning (**Lords amendments 29B, 30B and 108B**).

## Clause 35 – Report on assessing and meeting workforce needs

### Lords' amendment 29B

To move, That this House disagrees with the Lords in their Amendment 29B in lieu.

### NHS Providers' view

Ensuring we have the right levels of staff to care for patients now and in future is key. Our [survey](#) published last month shows that staff shortages across the NHS are having a "serious and detrimental impact" on services and will hinder efforts to tackle major care backlogs and improve access to services. An overwhelming majority of trust leaders (89 per cent) do not think the NHS has robust

plans in place to tackle workforce shortages. Our survey also found that, in line with this amendment, trust leaders overwhelmingly (88 per cent) want the government to be required by law to publish regular, independent assessments of how many health and social care staff are needed to keep pace with projected demand. Pressing workforce shortages and the resulting unsustainable workload on existing staff can only be tackled with a robust long term workforce plan.

A recent [report](#) from the Health and Social Care Select Committee, for example, highlights critical NHS staff shortages affecting cancer services in England. Throughout the pandemic, which has affected many cancer patients' diagnoses and treatment, NHS staff have worked tirelessly and continue to work flat out to deliver care amid ongoing pressures from COVID-19. The number of urgent cancer referrals and diagnoses are at very high levels again, and recent national investment in diagnostics is welcome, but we need a significant boost in staffing numbers to tackle this challenge.

We do not think that clause 35 will address the existing issues or be sufficiently responsive to potential societal shifts. Instead, we support the three-year reporting cycle put forward in the Lords' amendment 29Bhh. This amendment would give the NHS the best foundation to take long-term decisions about workforce planning, regional shortages and the skill mix to help the system keep up with service user need. Transparency on projections enables the system to plan and policy makers to scrutinise. It is a way to ensure that the NHS has the staff numbers required to deliver the work that the Office for Budgetary Responsibility (OBR) estimates the service will need to carry out in future. We believe that this would allow government and other bodies sufficient time to take action in response to the projected numbers, without allowing too long between reporting cycles.

This provision would also ensure close engagement with trusts and other key stakeholders in the creation of the assessments, and for the assessment report to be presented to parliament; we support this as it encourages greater transparency and accountability in regard to workforce planning.

**We do not therefore support the government's motion to disagree with 29B in lieu and would urge MPs to vote against this.**

## Clause 40 and Schedule 6 – Reconfiguration of services: intervention powers

### Lords' amendments 30B and 108B

The government disagrees with Lords amendments 30B and 108B and has proposed a number of amendments in lieu. The amendments in lieu clarify that a reconfiguration would need to be

“notifiable” and that regulations to define “notifiable” will be brought forward. The government is also removing the requirement for commissioners and providers to inform ministers where they are aware of circumstances that they think are likely to result in a need for the reconfiguration of NHS services. These amendments mean that the NHS would only need to notify the Secretary of State about significant reconfigurations proposals.

Amendments have also been made which would give the following bodies the opportunity to make representations to the Secretary of State: the NHS commissioning body; if the ICB is the commissioning body, NHS England; each local authority to whose area the proposed reconfiguration of NHS services relates; and any other person the Secretary of State considers appropriate.

There are also amendments which would mean that the Secretary of State must publish the reasons for taking the decision and send those to the NHS body; an amendment requiring the Secretary of State to publish any direction made, to ask a body to consider a reconfiguration and explain the reasons for giving it. An amendment has also been tabled which would introduce a requirement that once a reconfiguration has been called in by the Secretary of State, any decision must be taken within six months, beginning with the date of the direction.

## NHS Providers' view

We welcome the amendments tabled in lieu of 30B and 108B, which have been made following detailed discussions with the sector. These amendments address the key concerns we have highlighted in our previous briefings. These changes will protect local accountability in the NHS as the Secretary of State will only be notified about significant reconfiguration proposals. The amendments also introduce the transparency in the decision-making process we called for and will ensure that decisions must be taken in a timely manner.

We welcome the requirement on the Secretary of State to give the NHS commissioning body, Integrated Care Boards and local authorities an opportunity to make representations, and any other person the Secretary of State considers appropriate. We think that the Secretary of State should also consult any relevant providers who are responsible for delivering services, and that this should be reflected in any guidance or regulations relating to these provisions. We would welcome clarification from the Secretary of State on this point.

**We urge MPs to vote for these amendments today to ensure these checks and balances are passed into law.**