



Health and Care Act – Supporting a NHS Long Term Plan

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Executive Summary

Introduction

Liz Truss has been recently appointed as the new prime minister. While she remains committed to invest in social care, she nominated Thérèse Coffey as her new deputy prime minister and the secretary of state for health and social care.

The immediate challenges that they are facing refer to the shortages of social care staff and funding, the long waits in A&E departments, long ambulance services and delays in discharging patients who are well enough to continue their recovery at or closer to home.

The Health and Care Act

The Health and Care Act received Royal Assent on 28th April 2022. Since 2019, NHS England and NHS Improvement (NHSEI) were asked to identify any changes that would help it deliver an NHS Long Term Plan. Their key recommendation was to develop Integrated Care Partnerships (ICPs).

ICPs bring together partners from across the system to develop an integrated care strategy to address the health, social care, and public health needs of the population. Health institutions and local authorities in the system must have regard to the integrated care strategy when making decisions for patients.

The section of the NHS Act 2006 regarding NHSE's duties for the reduction of inequalities is also amended. According to this clause, NHS England has a duty to consult individuals to whom services are being or may be provided, in the planning and development of commissioning arrangements for those services.

Mental Health Act

The Mental Health Bill has been introduced together with the Mental Health Act. The Bill aims to speed up access to treatment, consecrate important protections for vulnerable people and ensure prisons are not used as an alternative to hospital treatment.

Reforms are also focusing in taking steps to ensure parity between mental health and physical health services. The government is already investing over £400 million to eradicate dormitories in mental health facilities, so people admitted to hospital can receive care in a modern and genuinely therapeutic environment.

Impact and recommendations

As the approach presents as an opportunity to stop some of the most marginalised people in society from experiencing harmful health inequalities and significantly poorer health outcomes, we welcome the positive impact that this could have on the treatment of homeless people.

The government has set out how it will reduce the number of people with learning disabilities or autism in specialist inpatient care by 50% in March 2024 (compared with March 2015). By investing in improving the capacity and capability of crisis support and community discharge programmes this can be achieved. Specialist training for health and care staff will also be a priority, to ensure they have the skills to better care for people with disabilities.

In terms of the Bill's plans to reduce reliance on mental health and specialist inpatient care, we also stress the importance of addressing inequalities and investing in local specialised support that addresses complex needs and traumas and related multi-morbidities.

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Introduction

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The immediate challenges that they are facing refer to the shortages of social care staff and funding, the long waits in A&E departments, long ambulance services and delays in discharging patients who are well enough to continue their recovery at or closer to home^{1,2}.

As the prime minister pledged to divert £13 billion of NHS funding into social care, it is unclear yet how they will be invested and what impact these cuts will have on the NHS itself. It is probable that the new Health and Care Act 2022 will provide the necessary framework for the implementation of new reforms.

¹ Morris, 7 September 2022

² Albert, Care Home, 6 September 2022

In fact, the Health and Care Act 2022 aims to increase integration between health and social care, and works to remove the depot designed for the NHS, by putting more power and autonomy into the hands of local systems³.

The pathway towards collaboration between institutions has already been paved during the COVID-19 crisis, when multi-agency community hubs, integrated neighborhood teams, and other locally developed arrangements addressed local needs and made use of common resources across services to ensure that people got the support they needed⁴.

Health and Care Bill

Background

In recent years, NHS and social care have experienced rapid activity growth and pressure in addressing various health related issues, as per below:

- over the last 9 years (between 2009/10 and 2018/19) the number of attendances in A&E increased by 4.3 million;
- the number of GP appointments have risen from 222 million in 1995 to 308 million in 2018/19;
- the number of outpatient attendances has increased by almost 36 million since 2009/10;
- In 2019/20, there were 1.9 million requests for adult social care support from new clients, an increase of 6% since 2015/16;

Additionally the sector is facing a growth of ageing population: over the next 20 years the population in England is expected to grow by almost 10%. The number of people aged 75+ is expected to grow by almost 60% – an additional 2.7 million people. The proportion of people aged 65+ with four or more diseases is set to almost double by 2035, with around a third of these people having a mental health problem. Growing morbidity and complexity of disease has been increasing in recent years and is likely to continue in future.

³ GOV.UK, Building the Right Support Action Plan, 19 August 2022

⁴ GOV.UK, Health and social care integration: joining up care for people, places and populations, 11 February 2022

It is also believed that COVID-19 will continue to cause innumerable short, medium and long-term effects to healthcare in the UK and has shone a spotlight on inequalities.⁵

The Health and Care Act received Royal Assent on 28th April 2022. Since 2019, NHS England and NHS Improvement (NHSEI) were asked to identify any changes that would help it deliver an NHS Long Term Plan. Their key recommendation was to transform the “system architecture of the NHS to increase coordination of services through the creation of integrated care systems”⁶, as developed later in the Integrating Care paper:

“The response of the NHS and its partners to Covid-19 and a further year of ICS development has increased the appetite for statutory ‘clarity’ for ICSs and the organisations within them. With an NHS Bill included in the last Queen’s Speech, we believe the opportunity is now to achieve clarity and establish a ‘future-proofed’ legislative basis for ICSs that accelerates their ability to deliver our vision for integrated care.”⁷

Integrated care partnerships (ICPs)

ICPs bring together partners from across the system to develop an integrated care strategy to address the health, social care, and public health needs of the population. The ICB and local authorities in the system must have regard to the integrated care strategy when making decisions⁸.

Each ICP must produce an integrated care strategy setting out how the assessed needs of its area are to be met by its ICB, NHSE and its local authorities. Local Health watch must be involved in the strategy, as well as people who live or work in the area.

In terms of procedures, each time an ICP receives an assessment of relevant needs (Joint Strategic Needs Assessment – JSNA) it must consider whether the current integrated care strategy should be revised. ICPs must publish their strategy and give a copy to each responsible local authority, and to each partner. If existing joint local health and wellbeing strategies do not address the needs sufficiently, a new joint local health and wellbeing strategy must be prepared^{9,10}.

⁵ GOV.UK, Integration and innovation: working together to improve health and social care for all, 11 February 2021

⁶ LOCAL.GOV.UK, Get in on the Act: Health and Care Act 2022, 23 May 2022

⁷ Department of Health and Social Care, Health and Care Act 2022 Core Measures, July 2022

⁸ LOCAL.GOV.UK, Get in on the Act: Health and Care Act 2022, 23 May 2022

⁹ LOCAL.GOV.UK, Get in on the Act: Health and Care Act 2022, 23 May 2022

The Act

The measures in the Act which directly implement or build on NHS England's original recommendations follow three themes, all of which are integral for helping the system to recover from the pandemic and transform patient care for the future years:

- *Working together and supporting integration*: These provisions intend to make it easier for NHS organisations and local authorities to work together to deliver their health and care functions.
- The procedure also aims *to reduce bureaucracy* and to speed up decision-making processes
- *Ensuring accountability and enhancing public confidence* by reporting and exploring the actions either in writing or in person¹¹.

The act also introduces measures that will:

- level-up health disparities in oral health and obesity through making it simpler to fluoride to water in more areas across England, and regulating unhealthy food and drink advertising;
- make services safer by establishing the Health Services Safety Investigations Body, an independent public body which will investigate incidents that have implications for patient safety and help improve systems and practices;
- ensure that the NHS is not buying or using goods or services produced by or involving any kind of slave labour;
- ensure that health and social care workforce have the right skills and knowledge to provide informed care to autistic people and people with a learning disability by making specialised training mandatory by law (the Oliver McGowan Mandatory Training);
- support victims of abuse and respond to recent child safeguarding tragedies by committing to looking at information sharing in relation to the safeguarding of children;
- safeguarding women and girls by banning the harmful practices of virginity testing and hymenoplasty;
- introduce regulation of non-surgical cosmetic procedures and improve the way medical professions are regulated;

¹⁰ LEGISLATION.ORG.UK, Health and Care Act 2022

¹¹Department of Health and Social Care, Health and Care Act 2022 Core Measures, July 2022

- supporting data sharing between health and social care and removing barriers in the hospital discharge process, reducing unnecessary delays for patients;
- remove needless bureaucracy in the system, allowing staff to get on with their jobs providing the best possible treatment and care for their local populations;
- set out the parity of mental health and physical health and ensure transparency around the spending allocated to mental health support;¹²

Duties for reducing inequalities

The section of the NHS Act 2006 regarding NHSE's duties for the reduction of inequalities is also amended. This implies reducing inequalities between persons (replaces "patients") with respect to their ability to access health services.

In fact, in its responsibilities for public involvement and consultation under section 13Q of the National Health Service Act 2006, NHS England has a duty to consult individuals to whom services are being or may be provided, in the planning and development of commissioning arrangements for those services. The Act extends this to include "carers and representatives" of people receiving a service or who may do so 13.

Overall, NHS England must consider the effects of its decisions and to publish guidance on:

- people's health and wellbeing
- quality of NHS services
- efficiency and sustainability of NHS resources

Mental Health Act

The Mental Health Bill has been introduced together with the Mental Health Act. The Bill aims to speed up access to treatment, consecrate important protections for vulnerable people and ensure prisons are not used as an alternative to hospital treatment.

Reforms are also focusing in taking steps to ensure parity between mental health and physical health services. The government is already investing over £400 million to eradicate dormitories in mental health facilities, so people admitted to hospital can receive care in a modern and genuinely therapeutic environment.

¹² GOV.UK, Health and Care Bill granted Royal Assent in milestone for healthcare recovery and reform, 28 April 2022

¹³ LOCAL.GOV.UK, Get in on the Act: Health and Care Act 2022, 23 May 2022

The idea is that people experiencing a mental health emergency will be able to access more care in the community, such as through crisis houses and safe havens, and those detained under the Mental Health Act will benefit from having more control over their care and treatment.

Investments aim to boost NHS mental health services and better support people in crisis outside of A&E and enhance patient safety in mental health units.¹⁴ Support for local communities to invest in alternatives to hospital admission for people experiencing a mental health crisis, such as “crisis houses” run by the voluntary sector, will also ensure people can access the treatment they need within their community.

By increasing local capacity, it should reduce avoidable hospital admissions and inappropriate out-of-area hospital placements. This will result in improved patient outcomes as people in crisis will be able to receive specialised treatment in appropriate environments, reducing the risk of readmission to hospital.¹⁵

The reforms will also change the way people with a learning disability and autism are treated in law, by establishing that they should only be detained for treatment if a mental health condition is identified by clinicians. Under part 4, the Bill introduces a duty for the clinician in charge of a patient’s treatment to consider certain matters such as the patient’s wishes and feelings and their participation in treatment decisions. This is referred to as a “clinical checklist” and a secondary opinion appointed doctor has responsibility for assessing the procedure.

Other benefits of reform will concern people with serious mental illness within the criminal justice system. The transfer of prisoners to hospital should occur within 28 days, ending unnecessary delays and ensuring they get the right treatment at the right time. Additionally, judges will work with medical professionals to ensure defendants can always be taken directly to a healthcare setting from court.¹⁶

Overall, the establishment of statutory care and treatment plans should set out how the patient’s current and future needs, arising from or related to their mental disorder, will be met. The plan should also provide evidence of important clinical decisions, including details

¹⁴ Department of Health and Social Care, Health and Care Act 2022 Core Measures, July 2022

¹⁵ Department of Health and Social Care, Health and Care Act 2022 Core Measures, July 2022

¹⁶ Department of Health and Social Care, Health and Care Act 2022 Core Measures, July 2022

of how the individual and those close to them have been included in care and treatment decisions¹⁷.

Impact on Homelessness

As we mentioned in previous sections, The Health and Care Bill is a new piece of legislation that reforms the delivery and organisation of the NHS, creating Integrated Care Systems, where local organisations such as councils, the NHS and other partners like charities and community groups, will collectively plan healthcare services that will best meet the needs of their residents.

As the approach presents as an opportunity to stop some of the most marginalised people in society from experiencing harmful health inequalities and significantly poorer health outcomes, we welcome the positive impact that this could have on the treatment of homeless people.

While they are facing different forms of social exclusion, the barriers to care faced by people experiencing homelessness are often overwhelming:

- rough sleepers are frequently unable to register with a GP because they don't have proof of address or photo ID (despite NHS rules stating that GP services do not need to ask for these documents), leaving them unable to access help before their condition becomes more serious;
- Shame and stigma can also prevent people from reaching out and the attitudes they experience when they do can be incredibly detrimental¹⁸;
- direct stresses of poverty and chronic insecurity;
- lack of awareness among many healthcare professionals of the specific needs of people in this group;

The lack of awareness among many healthcare professionals of the specific needs of people in this group and lack of prevention is creating a gap in addressing long-term support, leading to attendance at the only place they feel they can go: the emergency department. In fact, people experiencing homelessness attend A&E six times as often as people with a home, are admitted to hospital four times as often, and stay three times as long.

¹⁷ Morrison Carter Holly, Mills and Reeve Blog, 15 July 2022

¹⁸ Hicks Chris for Crisis, 10 January 2022

Therefore, we welcome specialist services and multi-agencies initiatives that aim to address the tri-morbidities of physical and mental illness and addiction, while focusing on active care coordination across health, housing, social care, and other services¹⁹.

Impact on people with disabilities

The *Building the Right Support Action Plan*, published 14 July 2022, brings together in one place commitments from across government and public services to ensure there is suitable community support available for people with a learning disability and autistic people. This supports government plans to reduce reliance on mental health and specialist inpatient care²⁰.

Measures include offering better support from birth, better preventative support in the community and work to improve quality of care. In fact, the government has set out how it will reduce the number of people with a learning disability or autism in specialist inpatient care by 50% in March 2024 (compared with March 2015).

Measures brought together in the action plan include:

- speeding up discharges for people with a learning disability and autistic people supported by additional targeted funding of more than £90 million in 2022 to 2023 including:
 - a £40 million investment from the NHS Long Term Plan to continue to improve the capacity and capability of crisis support;
 - £30 million of funding to continue putting key workers in place for children and young people with the most complex needs;
 - a £21 million Community Discharge Grant to local authorities, which will help people with a learning disability and autistic people to be discharged;
- limiting the scope under which people with a learning disability and autistic people can be detained by reforming the Mental Health Act to improve how people are treated in law;
- building on specialist training for health and care staff to ensure they have the skills to better care for people with a learning disability and autistic people;

¹⁹ Bax Alex, 14 February 2022

²⁰ GOV.UK, Building the Right Support Action Plan, 19 August 2022

- publishing an action plan on how to improve outcomes for all neurodivergent people who come into contact with the criminal justice system; 21'22.

SJOG – Discussion and Recommendations

The importance of community when addressing social care has been a key element from the very development of the concept in late 1940s.

While the idea of “community care” was firstly considered in supporting children, it took another decade to another decade before similar transitions began to develop in other areas, such as supporting older people to shift from long-stay hospital care to community-based alternatives.

Today’s reforms that aim to put more power and autonomy into the hands of local systems and to support people within their communities has its roots in the debate that emerged in the 50s. The idea was to reduce financial pressures on state provision, but improve the quality of care through focusing on the person.

In the 1980, alongside questions of funding, the other major difficulties appeared to lie in divided responsibilities and fragmented services and the evident responsibilities between central government departments²³.

SJOG welcomes, therefore the new reforms for good community provision and for supporting people to live an independent and ordinary life through having a home and feeling involved in their local environment, including through employment and having a reliable network of support.

We are aware of the importance of providing appropriate and culturally sensitive services that require us to understand the barriers facing by those at the margins of society, especially those with a foreign background or with No Recourse to Public Fund. Individuals can be affected by a lack of continuity in treatment care, lack of understanding of past and current traumatic experiences, long waiting times both for hospital appointments, poor access to interpreters in some settings and to specialists in secondary care²⁴.

We support the establishment of integration pathways within the health and care Bill, where multi-agency community hubs address together people’s complex needs. We

²¹ GOV.UK, Better care for people with a learning disability and people with autism, 14 July 2022

²² GOV.UK, Press release, 16 July 2020

²³ The Kings Fund, the Origins and development of Social Care

²⁴O’Donnell and colleagues, 2007

recommend the continuation of referral system into specialised services for those with no fixed accommodation, including those with NRPF.

In terms of government's plans to reduce reliance on mental health and specialist inpatient care for people with disabilities, we also stress the importance of addressing inequalities and investing in local specialised support. Alongside this there is a need to recognise the skilled workforce that offer care and support to enable people to live independently. Adequate funding to support the whole system including staff salaries is needed.

It is important, therefore, to invest in local specialised support, assessment and crisis management, together with appropriate training for medical practitioners, so that can make better use of "reasonable adjustments". These included trying to spend more time with the patient, simplifying the complexity of their language, and reducing the number of investigations such as blood tests and cans that might cause distress and better involving family members into a personalised support available at home that could not be reproduced in hospital.

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