Parliamentary brief
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BMA

BMA briefing: Queen's speech

About the BMA

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

Session: Debate on the Queen's speech – **A rescue plan for the NHS and Social Care** – Wednesday 19th May at 12.30pm

Overview

- In response to the government's Health and Care Bill and the White Paper: the BMA has long advocated for a more collaborative health and care system, greater focus on prevention and reform of social care.
- However, giving exhausted staff proper rest and providing much-needed additional resources to make inroads into the record backlog of care left in the wake of the pandemic needs to be the immediate focus.
- While the Government highlights the scale of the backlog and need to restore services, the £1bn funding already committed is nowhere near what is required, with the BMA estimating that it will cost at least £4bn to clear the elective backlog alone.
- Sweeping upheaval to the health service at this time mustn't be allowed to distract from the urgent task at hand. The BMA has long supported greater collaboration within the NHS, but we must continue to question the timing of this legislation as doctors and their colleagues need ample opportunity to engage with these changes.
- It's vital that the Government sticks to its pledge to address the longstanding and urgent crisis in social care by the end of the year. Not doing so threatens both the health and wellbeing of thousands of vulnerable people and continued knock-on effects on the wider health service.
- Doctors know that prevention is better than cure, and commitments to tackling areas of poor health that have been so visibly exposed during the pandemic – including obesity - are positive. However, with public health services undergoing years of cuts, these will only be achievable with substantial investment in public health infrastructure and staffing.
- After the year that healthcare workers have endured, witnessing loss of life on a scale previously unimaginable, we need decision-makers to be held accountable. It's right then that accountability for the NHS is placed firmly at the door of Government in this legislation. However, protection must be put in place to prevent this being used to secure more power over the health service for political ends.
- The proposed reforms are an opportunity to improve our health service and the health of the nation, but it must be solely driven by a desire to help patients, and to ensure that the NHS is given long overdue investment and support to be a publicly-funded provider to care for the health needs of our population.

Pay campaign

Doctors have given their all in the fight against COVID-19, with large numbers of them reporting higher than normal levels of fatigue and burnout. However, year-on-year, their real-terms pay has been slashed. Now, to add insult to injury, the Government has suggested only a 1% pay uplift for this year. That is why the BMA has launched its Fairness for the Frontline campaign: we are calling for significant pay increases for consultants, junior doctors and salaried GPs in England.

Find out more about our campaign here and join us in demanding the Government pays the frontline fairly.

Health and Care Bill

The BMA has advocated for a more collaborative health and care system since the introduction of the Health and Social Care Act 2012.

There are a number of critical areas where the Bill must be amended and strengthened to ensure it creates a health and care system that delivers integrated and safe patient care and is sustainable in future:

- **Workforce:** The NHS had insufficient staff when it entered the pandemic and the impact of this has been clear, with staff emerging from the pandemic exhausted and non-COVID care backlogs mounting. The success of the NHS and delivery of safe patient care depends on its staff, which is why Government must be accountable for ensuring adequate numbers of staff. To do this we believe the bill must include a responsibility for the Secretary of State to produce ongoing accurate and transparent workforce assessments which will directly inform recruitment needs, now and in the future.
- **Clinical leadership:** A truly collaborative and integrated healthcare system must have strong clinical and patient leadership, engagement and involvement at its heart. To ensure this is the case, we would like to see clinical leadership and representation must be embedded at every level of Integrated Care Services, including formalised roles for local medical representative bodies and public health doctors.
- **Procurement and outsourcing:** The Bill would replace the current competition and procurement rules for the NHS, scrapping Section 75 and automatic competitive tendering in recognition that this has led to costly procurement processes, fragmentation and the destabilisation of services. However simply abolishing Section 75 is not enough. To truly end disruptive competition and establish a collaborative, joined-up health care system, as is the Government's stated aim, the NHS must be established as the default option for NHS contracts.
- **Safeguards to curb political influence over NHS policy setting:** The Secretary of State's powers must be limited in the Bill to avoid inappropriate political influence in NHS decision-making.

The Bill is coming at a time when the NHS is experiencing unprecedented pressures. The immediate challenge for the NHS will be addressing the greatest backlog of care our health service has ever faced[1]. It is vital attention is not diverted away from addressing this critical challenge by reorganisations of the NHS.

[1] The BMA estimates that between April and December 2020 there were between 989,000 and 1.3m fewer first elective treatments than would normally have been expected, potentially costing the NHS between £4bn and £5.4bn to work through – BMA (2021) Pressure points in the NHS

Ongoing open and transparent workforce assessments

Without its staff there would be no National Health Service. The Government must therefore be accountable, through legislation, for ensuring health and care systems have the workforce required to meet the needs of the population, now and in the future.

The NHS does not currently have enough staff to cover patient demand. The number of overall vacancies in England, including clinical and non-clinical roles, stands at 88,801 FTE unfilled posts (a 7% vacancy rate), which is deeply concerning. Nine in 10 (91%) doctors responding to a UK-wide BMA survey[2] say that current staffing levels are 'inadequate to deliver quality patient care' and most doctors (74%) felt that situation had worsened within the previous year.

COVID-19 has highlighted and exacerbated the demands on the workforce and burnout has led to significant numbers of doctors considering leaving the profession or reducing their hours. 32% of respondents to the BMA's April 2021 COVID-19 tracker survey[3] said they were now more likely to take early retirement, whilst half reported being more likely to reduce their hours.

Without significant and sustained action, acute shortages of staff and episodes of unsafe staffing are expected to increase rapidly, before escalating exponentially. By 2030, the Nuffield Trust, Health Foundation and King's Fund have estimated that the gap between supply of, and demand for, staff employed by NHS providers in England could reach almost 350,000 FTE posts.[4] Worryingly, that was based on pre-pandemic calculations.

Overcoming unsafe staffing levels is an essential measure to ensure patient safety and to boost the wellbeing, morale, and productivity of staff working in the NHS. The forthcoming legislation presents a real opportunity for government to take sustainable action to alleviate issues relating to workforce supply and demand in England.

The white paper proposes a new duty for the Secretary of State to make it clearer *who* is responsible for workforce planning and supply in England. Whilst we welcome this new reporting requirement, we do not believe it will be sufficiently meaningful unless the Bill also addresses *what* must be delivered. Without a shared knowledge of what needs to be delivered, we cannot hold to account those responsible for delivering the levels of staffing needed to meet population need, now and in the future.

Hence, the BMA - alongside key organisations[5] representing healthcare professionals, including the RCN, NHS Confederation, NHS Providers, and the Academy of Medical Royal Colleges - is calling for a duty in the Bill to provide open and transparent modelling of staffing requirements. This assessment will elucidate a shared understanding of the levels of staffing needed to meet national, population-based demand and should inform local and regional recruitment needs.

This workforce assessment modelling must be publicly available, and presented to Parliament, to enable proper scrutiny and debate about what policies and investment are needed to prevent instances of unsafe staffing occurring.

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[2] Future vision for the NHS: all member survey, British Medical Association (2018)

[3] Thousands of overworked doctors plan to leave the NHS, BMA finds, BMA (2021)

[4] The health care workforce in England: make or break? The Nuffield Trust, Health Foundation and King's Fund (2018)

[5] For example, a joint letter from the BMA, NHS Confed, and the Academy of Medical Royal Colleges was sent to the Secretary of State (April 2021), available at: https://protect-eu.mimecast.com/s/2X9lCA1pphNN7DwHG2r4b?domain=bit.ly

Clinical engagement at the heart of the NHS

The BMA agrees with the aim of improving integration and supports placing ICSs on a statutory level to ensure they are transparent and accountable, as well as the introduction of a duty to collaborate.

However, these measures on their own are insufficient to delivering better integrated care. We are concerned that integration will be undermined by Foundation Trust statutory requirements that encourage them to focus on their financial performance, hindering efforts to break down barriers between primary and secondary care. Unless the statutory requirements on Foundation Trusts that encourage them to focus on their financial performance above all other priorities are removed, the duty to collaborate will be insufficient to break down the barriers between secondary and primary care.

The White Paper states that CCGs will be absorbed into their local ICSs, but there is limited detail on what this will mean at this point. It also remains unclear how system leaders and board members, at both 'Place' and ICS level, will be chosen and how leaders will be held accountable to the public. Clarity is urgently needed, to provide reassurance that power will not be concentrated at ICS level – which remains remote from frontline doctors as well as patients. It is vital the positive functions of CCGs, namely a strong clinical voice; local expertise and knowledge; skill and experience in commissioning services; and accountability to clinicians and patients, are not lost in this process.

Those working within the system and patients know best where the barriers to greater integration lie. Clinicians and patients must be at the heart of decision making in the NHS, including those working in general practice, secondary care, community care and public health. ICSs must have a formalised role for LMCs and LNCs, and public health doctors.[6]

NHS established as the default option for NHS contracts

The BMA welcomes the proposed removal of Section 75 of the Health and Social Care Act and automatic competitive tendering, which should reduce the costly disruption caused by the present procurement process. A 2018 BMA survey found that 73% of doctors were concerned by independent sector provision of NHS services. The most common reasons for concern were the destabilisation of NHS services, the fragmentation of NHS services, value for money and quality of care. Nearly 7 in 10 (66.5%) doctors who work in sectors with high independent sector provision felt that it has had a negative impact on the quality of service provision.[7]

Removing automatic tendering means it will be easier for current contract holders to retain their contracts and may be less scope for private sector providers to increase their foothold in the UK market. However, it is vital that the new provider regime NHSE is consulting on, establishes sufficient scrutiny and transparency over the tendering and awarding of contracts. The COVID-19 pandemic has clearly shown the shortcomings of a lack of scrutiny for the public purse. We are also concerned that services will remain open to any provider leaving the option to tender out services in local commissioners' hands.

If the Bill is to truly end disruptive bureaucracy and fragmentation as a result of unnecessary competition within our national health service, and establish a joined-up, collaborative approach to delivering services – as the Government has stated is its intention – then the NHS must be established as the default option for NHS contracts. This would ensure the private sector is only used when necessary with commissioners required to present a case as to why a non-NHS provider would be better placed to hold any such contract.

[6] BMA (2019) Briefing: Integrated Care Systems

[7] BMA (2019) Independent Sector Provision in the NHS revisited

Public accountability and Secretary of State powers

The BMA has advocated for clear lines of political accountability for the NHS at Secretary of State level and we were critical of the removal of responsibility for the NHS from the Secretary of State from the 2012 Act. However, we are concerned that the proposals in the White Paper focus more on securing power over the NHS for politicians than accountability for its performance.

A principle example of this is the power to amend or abolish ALBs (Arm's Length Bodies) via a statutory instrument following consultation, which while presented as a means of formally merging NHS England and NHS Improvement (along with Monitor and the TDA), would in theory allow for the Secretary of State to disband NHS England itself and without robust parliamentary scrutiny.

Likewise, the power for the Secretary of State to direct (or redirect) the NHS proactively and outside of the existing system of the NHS Mandate (the annual publication from government to the NHS setting out objectives and budgets) may provide important capacity for rapid changes in policy where needed, but could also increase political influence in NHS decision making and undermine long-term planning if and when political imperatives might change.

To avoid increased political influence in NHS decision making and undermining long-term planning if political imperatives change, the BMA is calling for clear safeguards and limits on the use of these powers to be included in any legislation.

Further reform and funding needed for social care

The social care system is in desperate need for reform and a significant funding increase. The proposed reforms within the Health and Care Bill to provide greater integration between health and care services are welcome. However, the social care system needs far greater reform and a significant funding boost.

Part of the much-needed funding increase for social care must be used to support the existing workforce and expand it to fill the estimated 112,00 vacant roles at any one time in 2019/20[8]. Improving training and pay would no doubt improve the quality of care provided, as well as help increase recruitment and retention of social care staff.

Very few people have access to free social care in England, with free social care only available to people with low savings, assets, or the greatest needs. Increasing access to free care will improve the lives of those who need care and, importantly, reduce pressure on the NHS.

Any assessment of the state of social care should include care provided in peoples' homes and care provided in care homes. Better integration of local NHS, social care and community services can help prevent people from needing to go into a care home, as well as preventing avoidable need for NHS care.

Greater focus on and investment in public health services is needed, particularly for middle and older age adults, to prevent or delay the need to access care services.

The government's proposals for social care reform that will be announced later this year must provide further funding for the sector, expand access to care and better integrate different services.

[8] Skills for Care (2020) The state of the adult social care sector and workforce in England

Prevention and commitments to tackle poor health

Commitments within the Queen's speech to focus on areas and causes of poor health, such as obesity and poor air quality are welcome. However, with public health services undergoing years of cuts, these will only be achievable with substantial investment in public health infrastructure and staffing.

Obesity Strategy

We support Government plans to take forward restrictions on junk food adverts. This shows that the Government is serious about addressing the drivers of obesity. If implemented fully, these landmark policies will stem the flood of unhealthy food and drink adverts, opening up opportunities for more healthier foods to be advertised.

Currently food and drink marketing on TV and online is dominated by adverts for products high in fat, sugar and salt. These new restrictions have the potential to shift the advertising environment towards adverts for healthier foods. This will provide vital protection for children, who are hugely influenced by food advertising, and benefit everyone's health.

To ensure this legislation is as effective as possible it must include the following elements:

TV

- The proposed watershed on unhealthy food and drink adverts must apply between 5.30am-9pm to all TV channels and all programmes with no exemptions.

Online

- A total restriction on unhealthy food and drink adverts on digital adverts of all kinds including social media posts and 'influencer' content.

Implementing restrictions for both TV and online is key to a level-playing field and ensuring that the Government's obesity strategy is future-proofed to consider current trends in digital use and online marketing.

More information on the importance of restricting junk food marketing and the link to obesity, please click here.