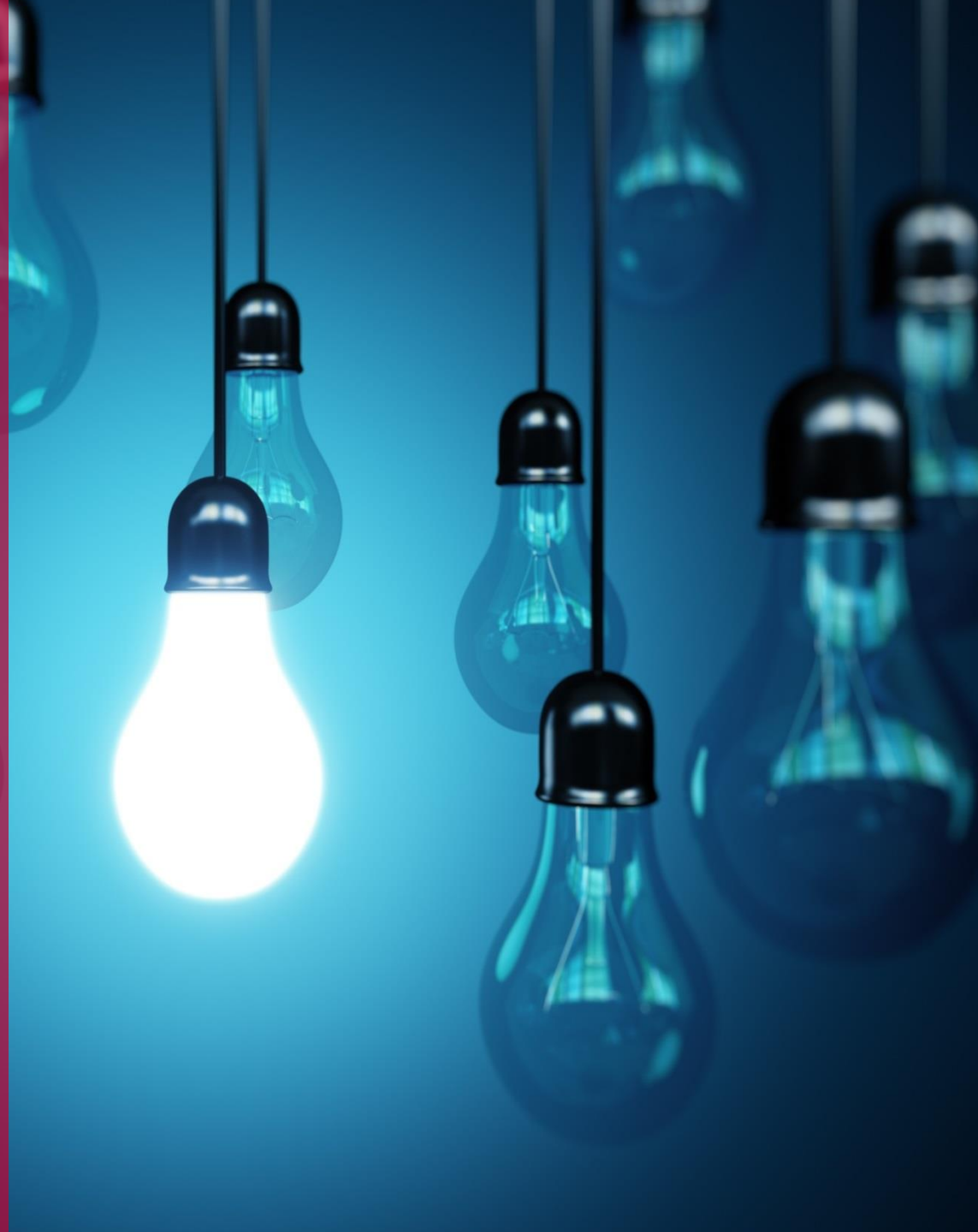


brownejacobson<sup>LLP</sup>

**The current  
legislation to  
Support the  
Delivery of the  
Long Term Plan  
and Proposed  
Changes**

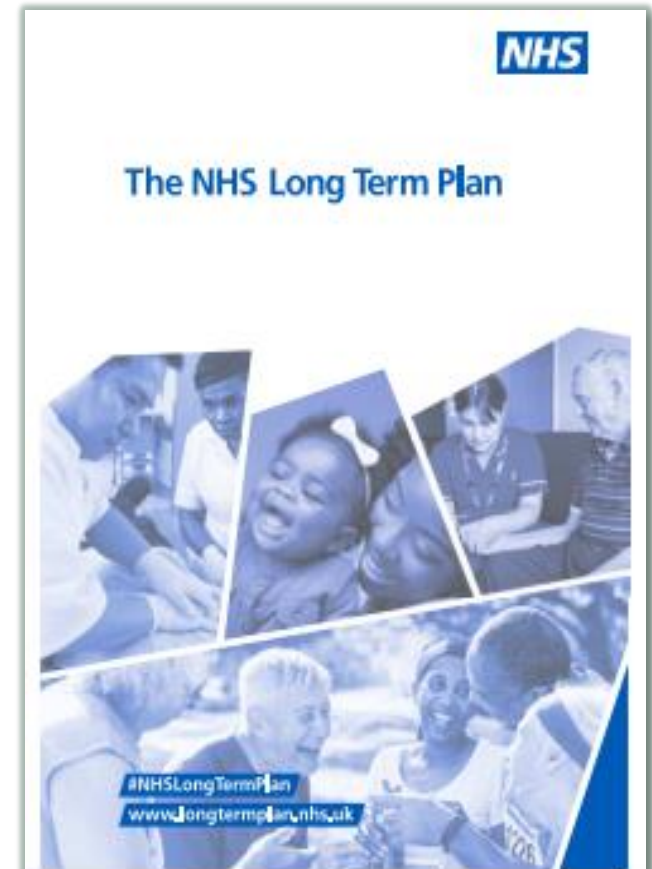
Gerard Hanratty - Head of  
Health

27 February 2020



# NHS Long Term Plan - new service model

- 10 year plan
- Boost out of hospital care and dissolve the divide between primary and community health
- Reduce pressure on emergency hospital services
- More personalised care
- Digitally enabled care
- Move to Integrated Care Systems everywhere



# Long term plan - five year framework for GP contract reform

- Primary Care Networks are an essential building block of every Integrated Care System'
- Under the Network Contract Directed Enhanced Service (DES) all GP practices must join a Primary Care Network (PCN)



# NHS Long Term Plan - full steam ahead?

*‘Within the first three months of our new term, we will enshrine in law our fully funded, long-term NHS plan.’*



# Current Position

- ICSs to deliver the LTP can be created under current legislation
  - CCG Mergers - statute
  - Provider Alliances - contractual
  - Commissioner and provider integration - statute and contractual
  - Integrated Care Systems - policy and statute and contractual
- Problems with current legislation
  - Does not easily fit with LTP direction of travel
  - Commissioner and Provider split
  - Competition and Procurement
  - Functions, duties and powers in wrong place to maximise LTP opportunity

# Queen's Speech - Health

- Legislation will enshrine in law the largest cash settlement in the NHS's history [NHS Funding Bill to 2024] and we will deliver the NHS Long Term Plan in England to ensure our health service is fit for the future.
- A Medicines and Medical Devices Bill will ensure that our NHS and patients can have faster access to innovative medicines, while supporting the growth of our domestic sector.
- We will also pursue reforms to make the NHS safer for patients.
- We will provide extra funding for social care and will urgently seek cross-party consensus for much needed long-term reform so that nobody needing care should be forced to sell their home to pay for it.
- We will continue work to modernise and reform the Mental Health Act to ensure people get the support they need, with a much greater say in their care.

# Queen's Speech - LTP

- In September 2019 the NHS published a set of recommendations for legislative changes that would enable the NHS to go faster and further in realising the ambitions set out in the 10-year NHS Long Term Plan.
- The Government welcomes the NHS's leadership of this work, and all the input from people across the health and care system and is committed to supporting the implementation of the NHS Long Term Plan.
- The Government is considering the NHS's recommendations thoroughly and will bring forward detailed proposals shortly. This will include measures to tackle barriers the NHS has told Government it faces.
- This will lead to draft legislation that will accelerate the Long Term Plan for the NHS, transforming patient care and future-proofing our NHS.

# NHS recommendations for NHS Bill (1)

- Published 26 September 2019
- 23 recommendations
- ‘An NHS Bill should be introduced in the next session of Parliament. Its purpose should be to free up different parts of the NHS to work together and with partners more easily. Once enacted, it would speed implementation of the 10 year NHS Long Term Plan’





# NHS recommendations for an NHS Bill

- Repeal CMA's statutory roles in the NHS as set out in the HSCA 2012 for merger review and licensing or tariff review (R1, R3) - [*effectively position now*]
- Abolish Monitor's specific focus and functions to enforce competition law (R2) [*still CMA*]
- Scrap s75 of the HSCA 2012 (R4) - [*fits with above*]
- Remove commissioning of NHS healthcare services from the jurisdiction of the PCR 2015 (R5)
- New NHS procurement regime (not to be called best value test) (R6) [*cabinet office consultation expected April/May*]

# NHS recommendations for an NHS Bill

- New patient choice regulations (R7)
- Specific flexibilities on NHS national tariff formula (R8, R9, R10, R11) [*follows JR challenges*]
- Reverse repeal of Secretary of State's power to establish new NHS trusts, to support the creation of Integrated Care Providers (ICPs) (R12) [*never enacted*]
- Only statutory NHS providers should be permitted to hold NHS ICP contracts [*makes clear focus on NHS delivery*]

# NHS recommendations for an NHS Bill

- ‘Reserve power’ only for NHS E&I to set annual capital spending limits for NHS Foundation Trusts (R13) (but see Health Infrastructure Plan - Oct 2019)
- NHS commissioners and providers should be allowed to form joint decision-making committees on a voluntary basis (R14) [*reduce commissioner/provider split in HSCA*]
- Closer collaboration between NHS commissioners and providers (R15, R16, R18-R22) (and between NHS and local authorities) [*new s.75 NHS Act anticipated*]

# NHS recommendations for an NHS Bill

- A new ‘triple aim’ of better health for the whole population, better quality care for all patients and financially sustainable services for the taxpayer (R17) [*fits with overarching function of comprehensive health service*]
- NHS England and NHS Improvement should be permitted to merge fully (R23) [*will some functionality therefore go to ICSs?*]

# Potential Future Position

- Focus on integrated delivery across health and social care by public authorities
- Central strategy to direct regional delivery
- Reduction in competition and procurement law constraints
- Potential to create less adversarial mechanism for procurement disputes - tribunal or ombudsman
- Create by statute a Health Service Safety Investigations Body with Medical Examiners to carry out their functions of scrutiny to identify and deter poor practice; and to ensure that their performance is monitored
- Enable the SoS to create Integrated Care Providers (ICPs) as statutory bodies
- Free up different parts of the NHS to work together and with partners more easily.

# Any questions?



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