
NHS Check 8:

*David Cameron's NHS
re-organisation*



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Today, David Cameron's NHS re-organisation comes into force. This comprehensive survey of the new NHS system finds emerging evidence of the dangers Labour warned about.

In March 2013, just weeks before the changes came into force, NHS chief David Nicholson told MPs that the NHS had been put at "maximum risk" by the changes¹.

It is a flawed piece of legislation that has destabilised patient care and commercialises the NHS.

That's why Labour has pledged to repeal the market rules of David Cameron's NHS Act.

The next Labour Government will keep the new organisations, to avoid the upheaval of another re-organisation. But we will ask them to work differently – in a collaborative, not competitive NHS.

Before the election, David Cameron promised there would be no more top-down reorganisations of the NHS. Once inside Downing Street, David Cameron chose to bring forward the biggest top-down reorganisation in NHS history at a time of huge financial pressure - exposing the NHS to greater levels of risk.

David Cameron said he wanted to put NHS staff in control, but refused to listen to their concerns: less than one-in-ten NHS staff wanted to see his Bill passed, with the vast majority wanting to see it withdrawn², yet he ploughed on regardless.

Labour, NHS staff and patients are concerned about the dangers the NHS faces as a result. Despite assurances given by Ministers during the passage of the Bill, the re-organisation:

- fails to put doctors in control, instead empowering lawyers and adding bureaucracy;
- has taken over £3 billion away from patient care;
- brings in hundreds of new private companies through Any Qualified Provider tendering and new competition rules;
- fails to give the NHS the real service reform needed to meet the challenges of the 21st century, and risks discouraging integration and collaboration.

The Government's reorganisation is not ready to go live on 1st April. Too many organisations due to take control have not yet been fully authorised and set up.

As the new NHS launches, confusion remains over who will be in charge, how the competition rules trapped in Parliament will operate and how potential conflict of interests will be handled.

The Government has put the NHS through three years of unnecessary turmoil, wasting time and resources that should have been used to focus on patient care and deliver the necessary efficiency savings.

¹ <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhealth/uc982-ii/uc98201.htm>

² YouGov poll of NHS staff, January 2012:

<https://docs.google.com/spreadsheet/ccc?key=0AoAFg0gyZP4jdDhFLTRSQWM0VU5NeFNmOVgxcG5rT3c#gid=1>

In 'Never Again?', Nick Timmins' detailed account of the Government's NHS re-organisation, an unnamed civil servant recalls of Andrew Lansley's attitude towards the efficiency challenge:

*"The biggest challenge was trying to get the Secretary of State to focus on the money - the £20 billion and the sheer scale of the financial challenge." His attitude, however, was that "I am going to do these reforms anyway, irrespective of whether there are any financial issues. I am not going to let the mere matter of the financial context stop me getting on with this."*³

More recently in March 2013, the Department of Health handed £2.2 billion to the Treasury in George Osborne's Budget - money that should have been invested in frontline care. Patients will find this clawback hard to understand as the NHS struggles to cope with the re-organisation and plummeting nurse numbers.

You cannot trust the Tories with the NHS.

10 dangers of David Cameron's NHS re-organisation...

- 1. The NHS will be opened up to hundreds of private companies through Any Qualified Provider tendering and the new competition (Section 75) regulations**
- 2. Reports that a third of GPs involved have a potential conflict of interest**
- 3. New NHS bodies not yet fully authorised**
- 4. From today the NHS gains more layers of bureaucracy with hundreds of new statutory bodies**
- 5. The reorganisation and creation of new structures has wasted over £3 billion needed on the frontline**
- 6. At least £1bn spent on redundancy pay-offs**
- 7. Around one-third of Councils report Healthwatch – the patient voice – will not be ready**
- 8. Out of hours GPs services and new 111 service unprepared to replace NHS Direct**
- 9. From today the Health Secretary hands over power to a new £60 billion quango**
- 10. NHS hospitals can fill up to half their beds with private patients**

1. NHS opened up to full-blown commercialism

Far from letting doctors decide, Ministers are forcing the medical profession to open up NHS services to the market through the competition (Section 75) regulations.

Procurement regulations aimed at setting out the competition intentions of last year's Health and Social Care Act – known as Section 75 – were presented to MPs and Lords six weeks before the new NHS system comes into force. Parliament has not had a chance to scrutinise the regulations and GPs, Royal Colleges and others are expressing grave concerns about the forced tendering of services.

³ <http://www.kingsfund.org.uk/publications/never-again> page 60

The Health Secretary was forced to rewrite the rules in early March as it became clear the Government had reneged on promises to let GP commissioners decide which NHS services would be opened up to commercial competition.

But the amended regulations⁴ are still a blueprint for the back-door privatisation of the NHS. The independent Lords scrutiny committee on secondary legislation⁵ reported that the regulations had not changed in substance. They also said that this confusion has created instability in the NHS. Despite the rewrite, doctors do not have clarity on the job they are being asked to do.

During the discussions around the regulations a single example, that exemplified the new arrangements, gained media attention⁶. A group of GPs in Hackney, London, offered to run out-of-hours services for their area. Yet they were turned down by commissioning authorities who said they could not be considered unless they were prepared to join a competitive tendering process at an estimated cost of £50,000. The 'GPs in control' mantra failed to materialise.

In addition, Labour's third NHS Check Report (October 2012) showed that 396 services across England, worth a quarter of a billion pounds had been put to the market through the Any Qualified Provider regime.

A further 39 services were forced out in a major expansion of Any Qualified Provider tendering in community services.

Labour believes the future of the NHS demands an integrated approach to service delivery. However, this legislation will create fragmentation with hundreds of new private companies in the NHS. Many fear it will be the courts, not doctors that will decide which services need to be put out to competition.

Ministers must again withdraw these regulations and honour the commitments they made during the passage of the Bill.

2. GP conflict of interests

A recent investigation by the British Medical Journal revealed that 1 in 3 new GP commissioners have financial links to private healthcare providers⁷.

These results must be considered in the light of the Government's continued determination to open the NHS to full commercial competition.

Patients and the public want those entrusted with making decisions about the NHS to have its best interests at heart. They will be shocked to learn that so many have a potential conflict of interest.

On the eve of the new system, the Sunday Times on 31st March 2013, has highlighted some examples which it suggests raise concerns about conflicts of interests.

⁴ <http://www.dh.gov.uk/health/2013/03/pccr>

⁵ <http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/153/15302.htm>

⁶ <http://www.itv.com/news/2013-03-27/gps-cry-foul-over-nhs-competition-rules-section-75/>

⁷ <http://www.bmj.com/content/346/bmj.f1569> (£)

- Dr Kiran Patel, the chair of Bury CCG in Greater Manchester, whose diet company, ABL Health, was awarded the first contract by the CCG, worth £1m.
- Jim Logan, on the board of Barnsley CCG, whose Pain Management Solutions company has been commissioned by the CCG and previously earned more than £1m from the NHS.

Labour has consistently warned David Cameron that his reorganisation fails to offer protection against real conflicts of interest at the heart of the NHS. He refused to listen and now his new framework risks undermining the doctor-patient relationship and damaging public trust in the NHS.

To uphold public trust, Ministers must bring in new rules to ensure that no GP takes part in any decision in which they could be perceived to have a financial interest. Following the BMJ study, the Royal College of General Practitioners⁸ and the British Medical Association also joined the call for clearer rules.

3. New NHS bodies not yet fully authorised, and majority of GPs feel disengaged

New NHS bodies take control of local patient services today despite half failing at least one of the key tests set by the national NHS Commissioning Board.

A document from the new NHS Commissioning Board⁹ (NCB) reveals that half of the new Clinical Commissioning Groups, replacing Primary Care Trusts from today, have not been given the full green light to run the NHS in their area.

Checks run on the 211 new local CCGs by the NCB – now responsible for doctors’ surgeries, NHS Walk-in centres and out-of-hours GP visits – denied half of the groups (106 CCGs) full authorisation. As the Health and Social Care Act 2012 comes into force groups were found to be lacking strong leadership, a diverse make-up, plans to engage with patients, adequate financial planning and arrangements for working with neighbouring CCGs. Ministers have failed to ensure the bodies were ready for the day they take control of the NHS.

Meanwhile, a survey conducted by GP magazine *Pulse*¹⁰ shows that the majority of GPs feel ‘disengaged’ from the new local bodies - 55% said they were no more involved in commissioning decisions now than under the Primary Care Trusts.

4. New layers of bureaucracy

Before the General Election, David Cameron made a point of telling NHS staff that there will be no more-top down reorganisations of the NHS and that previous attempts had created a “bowl of alphabet spaghetti”.¹¹

⁸ <http://www.rcgp.org.uk/news/2013/march/rcgp-response-to-bmj-paper-on-conflicts-of-interest-in-commissioning.aspx>

⁹ <http://www.commissioningboard.nhs.uk/wp-content/uploads/2013/03/ccg-w1-3-review.pdf>

¹⁰ <http://www.pulsetoday.co.uk/20002440.article>

¹¹ David Cameron, speech to RCN conference, 11 May 2009

However, his re-organisation has seen new bureaucratic structures created across the NHS – starting with the creation of a National Commissioning Board, whose own Chief Executive said it could become “the greatest quango in the sky”.¹²

The Royal College of GPs said that the NHS will go from having 163 statutory organisations to 521:

- 220 Pathfinder consortia
- 150 Health and Wellbeing Boards
- 150 local authorities with a new public health responsibility
- 1 NHS Commissioning Board

Other new bodies to be created include Clinical Senates, new Commissioning Support Units, Public Health England, Healthwatch England, Health Education England, Citizens’ Panels, and Local Education and Training Boards.

5. A waste of precious resources

David Cameron has siphoned billions out of the NHS front-line and wasted it on a back-office re-organisation that no-one wanted and no-one voted for. The Government’s catastrophic decision to re-organise at a time of huge financial pressure has also exposed the NHS to greater levels of risk.

The biggest top-down re-organisation in its history has resulted in three lost years of drift and has risked distracting it from its main task of patient care.

For two consecutive years, 2011-12 and 2012-13, annual Operating Framework documents required Primary Care Trusts to hold back 2% of their budget to pay for “non-recurrent system change”¹³. Across England, this fund has totalled £3.45bn across the two years:

Regional Health Authority	Estimated cost
North East SHA	£191,300,000
North West SHA	£504,000,000
Yorkshire and the Humber SHA	£351,000,000
East Midlands SHA	£277,000,000
West Midlands SHA	£367,000,000
East of England SHA	£348,000,000
London SHA	£566,000,000
South East Coast SHA	£275,000,000
South Central SHA	£237,000,000
South West SHA	£329,000,000
TOTAL	£3,445,300,000

¹² Speech at the Commissioning Show reported in the *HSJ*, 16 June 2011, <http://www.hsj.co.uk/news/policy/commissioning-board-shouldnt-become-greatest-quango-nicholson/5031251.article>

¹³ <http://www.dh.gov.uk/health/2011/11/operating-framework/>

Professor Kieren Walshe, at the outset of the Government's re-organisation in 2010 wrote in the BMJ¹⁴ that it would cost £2-3 billion. Last week, on the eve of the full enforcement of the plans, the academic from the Manchester Business School confirmed his assessment of the costs involved for minimal changes. He told the BBC Radio 4 Today programme, referring to the new Clinical Commissioning Groups, *"we've spent £3bn on creating these for them to look pretty much like PCTs, same people, same managers"*¹⁵.

Whilst Ministers have forced the NHS to focus on this structural re-organisation, it has struggled to make much-needed efficiency savings. The Government was warned three times in March 2013, by the NHS Confederation¹⁶, the House of Commons Health Select Committee¹⁷ and the Public Accounts Committee¹⁸ that the NHS had gone about the efficiency drive in a unsustainable way – cutting the 'low-hanging fruit', such as rationing care and cutting staff numbers, instead of focusing on innovative integration projects to achieve savings.

6. A billion for managers' pay-offs – more than a third of whom continue to work in the NHS – as nurses receive P45s

Thousands of managers have received six-figure packages and over of third of 'paid-off' staff continue to work for the NHS.

Cash-strapped NHS organisations have been forced to spend at least £1 billion in redundancy payments during the Government's deckchair-shuffling exercise. The Department of Health's annual accounts for 2011-12¹⁹ confirm that £946 million had been spent by April 2012, with at least another year before the re-organisation was complete.

The document also shows that by the same point the NHS had footed the bill for 1,300 pay-offs over £100,000 and 173 over £200,000.

Days before the new system is due to begin, new figures confirmed that 2,200 of the 6,000 managers made redundant during the re-organisation are again employed by the NHS²⁰.

While thousands of nurses have been lost from the NHS under the Tory-led Government, £1 billion has been spent on managers' pay-offs. Nothing more clearly illustrates a Government with its priorities wrong.

¹⁴ <http://www.bmj.com/content/341/bmj.c3843.full> (£)

¹⁵ BBC Radio 4 Today 25/03/2013

¹⁶ <http://www.nhsconfed.org/priorities/latestnews/Pages/Tough-times-tough-choices.aspx>

¹⁷ <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhealth/651/65102.htm>

¹⁸ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/news/nhs-efficiency-savings-report/>

¹⁹ Page 150: <http://www.official-documents.gov.uk/document/hc1213/hc00/0066/0066.pdf>

²⁰ <http://www.theyworkforyou.com/wrans/?id=2013-03-14a.147768.h&s=andy+burnham+2013-03-08..2013-03-20#g147768.q0>

7. Local 'patient voice' bodies struggle with new functions

In February, Labour revealed that a third of local councils cannot guarantee they will have fully functioning local Healthwatch bodies in place by April 1st.

Healthwatch was created by the Government's re-organisation as a new set of bodies through which patients and the public could exercise influence over health services in their area; provide people with information about their choices; signpost to information about services; give feedback to commissioners and service providers; and help Clinical Commissioning Groups make sure services are designed to meet local needs.

Large numbers of local authorities have failed to sign contracts with organisations to run Healthwatch and it's likely to be months before they are properly up and running.

The Government has neglected to fulfil its promise to champion the interests of patients and the public through these bodies.

8. NHS 111 not yet ready to replace NHS Direct

In the final days before the new NHS 111 is due to rolled-out nationwide, senior medical professionals have raised concerns over staffing levels and the quality of advice given to patients²¹.

The new service will replace NHS Direct in offering medical advice and directing patients to out-of-hours care if needed.

However, where it has been trialled, the new advice line has failed to answer large numbers of calls²² and some patients are even being asked to phone back later.

Desperate patients, unable to get the advice they need, are left with no option but to turn to A&E – meaning waiting lists are growing.

Doctors have questioned the quality of advice given by the service – no longer operated by trained nurses – and ambulances have been sent to the trivial cases, which risked leaving serious cases waiting longer.

The leader of the British Medical Association's GP Committee has written to the Chief Executive of the NHS to warn that patients were facing immediate risk during the Easter bank holiday weekend and called on the Government to halt its introduction.

In Manchester, the system was shut down just 11 hours after it was launched and NHS West Midlands abandoned it after three days when the service failed to cope with demand.

The popular NHS Direct service has been broken up and private companies are failing to fully take its place.

²¹ <http://bma.org.uk/news-views-analysis/news/2013/march/gps-implore-government-to-delay-nhs-111>

²² <http://www.bbc.co.uk/news/health-21922711>

9. Secretary of State hands over responsibility for the NHS

From 1st April 2013, the Health Secretary no longer has a formal duty to provide comprehensive health care throughout England.

This has been replaced by a duty on the new local commissioning groups to arrange provision as they see fit for their area.

The Secretary of State's role, traditionally responsible for comprehensive 'provision' in the NHS and politically accountable to the electorate, will have its powers reduced to 'promotion'.

Labour is concerned that the local groups, no longer accountable to the Health Secretary, will lose the current emphasis on universality in the NHS – resulting in a postcode lottery for patients.

David Cameron's re-organisation is removing the N from NHS and paving the way for a postcode lottery writ large. Patients are already seeing hundreds of essential treatments, like cataract operations, restricted or stopped altogether.

Labour will restore the Secretary of State's duty to provide comprehensive care across the country.

10. Hospitals set to make more money by prioritising private patients

The NHS re-organisation allows an NHS hospital to earn up to 49% of its income from treating private patients.

Labour is concerned that, in a tight financial climate, some hospitals will end up prioritising generating income from private patients at the expense of NHS patients. As the Government's own revised impact assessment on the new legislation acknowledged, "*there is a risk that private patients may be prioritised above NHS patients resulting in a growth in waiting lists and waiting times for NHS patients*"²³.

Under Labour, Foundation Trust hospitals were restricted by a cap on their private patient income – typically at 2-3% based on their private patient work in 2003, as Foundation Trusts were created.

The Government has simultaneously squeezed NHS finances and effectively abolished the private income cap - hospitals now have the freedom and incentive to turn over their beds to private patients. A "no bail-outs" rule, where hospitals in financial trouble are allowed to go bust with no Government help, will only encourage this culture.

²³ Department of Health, Health and Social Care Bill 2011: Impact Assessments, September 2011, p64, B.155