FAQs on NHS England and NHS Improvement's legislative recommendations on ICSs

Version 1, 11 February 2021

1. Why do you need to legislate for ICSs and why now?

- Legislation helps to clarify roles and responsibilities between health and care organisations, and we do not believe that existing legislation provides a sufficiently firm foundation for system working. It is only one part of the solution, but it is an important one.
- In part this is a reflection of response to the COVID-19 pandemic, which showed that collaboration is more effective than competition in protecting health and treating disease. As well as posing new challenges, the pandemic allowed the NHS and its partners to make important and beneficial changes to how they work, leading to new gains that we want to lock in for future.

2. How did you decide these recommendations?

- Our legislative recommendations are based on several years of 'bottom up' conversations with people who use and work in services, partners such as local government and the voluntary sector, the experience of the earliest ICSs and what they told us they need to get better results for those they serve.
- Most recently, we received thousands of responses to an invitation to comment on draft proposals set out in November and ran more than 30 sessions with stakeholders including patients groups, charities and organisations representing NHS clinicians and managers.
- It follows a clear and consistent direction of travel which also draws on the work of STPs and vanguards, through which local organisations worked more closely together. This was signposted in the *NHS Five Year Forward View*, the *NHS Long Term Plan* and many other documents in between.
- One of its central aims is to remove outstanding barriers and fragmentation that exist to partnership working, simplifying process and cutting bureaucracy that get in the way of partnership working. One of our aims is to ensure as little disruption as possible while having the greatest possible impact.

3. What will the recommendations mean for our patients and communities?

- We must never lose sight of the purpose, which is improving health for everyone, with better and more convenient care for those who needed, while spending every pound of public money wisely. Any organisational or legislative change should be the minimum necessary to support that ambition.
- ICSs and STPs have done great things during the past few years: improving mental health services for those at times of crisis, supporting children to get the healthiest possible start in life, and identifying and shielding the most vulnerable during the COVID-19 pandemic. Our recommendations are about making it easier behind the scenes to support people who provide health and care services to be supported do more things like these.

4. What will they mean for commissioning responsibilities?

- Distinct commissioning and provider responsibilities will remain in individual organisations or systems in law, even with legislative changes that place statutory NHS commissioning functions with ICSs.
- Nevertheless, we want to support commissioning functions to become more strategic and better equipped to plan how to meet the whole needs of their populations. This will also involve providers playing an enhanced role, particularly in drawing on clinical expertise to make decisions about service change and pathway redesign.
- We want to support commissioners and providers to work together, bringing together their distinct perspectives and expertise to make genuinely cross-system decisions about how we improve health and care for all citizens.

5. What does this mean for our clinical and professional leaders?

- Clinical and other frontline staff have led the way in working across professional and institutional boundaries and will be supported to continue to play a significant leadership role in places and systems. We will be producing advice for ICSs on embedding system-wide clinical and professional leadership at every level of governance, including through their health and care partnership.
- This should include a central role for GPs and primary care networks. As well as planned primary care representation on the NHS ICS board, clinical leaders representing primary care will sit in place-based partnerships reflecting their important part in place-based planning and local leadership.
- Experience of the earliest ICSs shows that great leadership is critical to success and can come from any part of the health and care system. To be effective, it must draw on the talents of leaders from every part of a system. The earliest ICSs developed a new style of behaviour, which makes the most of the leadership teams of all constituent organisations and empowers frontline teams, and we want to share this experience everywhere.

6. What does it mean for local authorities?

- Local authorities are integral partners and have an important role in the approach we are recommending to Government.
- We are recommending the statutory establishment in each ICS of a health and care partnership which brings together NHS organisations and local councils in a partnership of equals, alongside the statutory ICS bodies which will allow the NHS and local government to act as strong partners.
- We expect the devolution of more functions and resources to place-based committees to enable further local decision-making.
- One of the core purposes here is for the NHS to make a full contribution to economic and social recovery that can only be achieved in partnership with local councils. We know that this includes the full run of their work – for example, housing, leisure and employment services as well as public health and social care.

7. How will the voluntary sector be involved?

- The voluntary, community and social enterprise (VCSE) sector is a critical strategic partner in ICSs and brings skills and a perspective than can help improve systems' work. There are many examples of the VCSE sector playing a full role in the work of systems: providing services and understanding of local communities and their health and care needs.
- From a legislative point of view, although there would be a core mandatory membership requirement for the health and care partnership and the NHS ICS Board, local systems would be able to invite any other organisation or representative to be involved in a way that best suits their local population.
- We will be setting out further guidance and support later in 2021 to help all systems involve the VCSE sector in their work at every level.

8. How will a statutory ICS be different from a CCG?

- ICSs will be a different type of decision-making body from CCGs – by bringing in the perspectives and skills of a wider range of partners. We want to empower them to take the best of CCGs, but to be better equipped to respond to the whole needs of the population they serve.
- Although we propose the ICS takes on many of the CCG functions, its remit will be much broader and have a much greater system role. NHS trusts, FTs or local authorities will be full and active partners in the leadership of the ICS and could also delegate some of their functions into the collaborative arrangements in the system.

9. Will this change accountability arrangements for NHS trusts and foundation trusts?

- Our recommendations for ICS will not fundamentally change the core duties and functions of NHS trusts and foundation trusts to improve quality of care for patients and meet key financial requirements.
- The move towards greater collaboration will foster mutual accountability for health outcomes between NHS and other organisations at system level, drawing on the collective expertise of commissioners and providers to plan services in the best interests of local people and the wider health economy.
- To help achieve this, NHSE/I's legislative recommendations for government include new duties to support more collective decision-making in order to improve quality of care, ensure effective use of resources and take into account the health needs of the local community.

10. How will the transition be handled?

- We want a take a different approach to this transition: one characterised by care for our people without distracting them from the 'day job' and the critical challenges of recovery for the NHS and tackling population health.
- We also want to provide as much stability of employment as possible while NHS ICS bodies develop new roles and functions that not only

improve health and care but also make better use of the skills, experience and expertise of all our NHS people.

- There will be a set of HR principles developed nationally to support this transition and these will be available in April 2021. The aim of these principles is to provide a framework for a consistent approach, including the employment commitment, but to enable local implementation, recognising the differences in systems across the country.

11. How will creation of statutory ICSs affect those who work in CCGs and ICSs?

- Under these proposals we need to ensure that we support our staff during organisational change by minimising uncertainty and limiting employment changes as much as possible.
- We want to take a different approach to this transition; one that is characterised by care for our people and no distraction from the 'day job' - the critical challenges of recovery for the NHS and tackling population health.
- We are therefore seeking to provide as much stability of employment as possible while NHS ICS bodies fulfil their purpose, functions and roles, and ensure they use the skills, experience and expertise of all our NHS people in doing so.
- Colleagues in CCGs will become employed by the NHS ICS body as the legislation comes into effect and the ICS becomes the statutory body. There is still a requirement for strong place based work within an NHS ICS Body which is why we think this option can provide both the necessary change but with minimal organisational change.
- NHS people within the wider health and care system (below board level) affected directly by these legislative changes, including CCGs, NHSEI and NHS providers, will receive an employment commitment to continuity of terms and conditions (even if not required by law) to enable all affected colleagues to be treated in a similar way despite a variety of contractual relationships. This commitment is designed to provide stability and remove uncertainty during this transition.
- We will promote best practice in engaging, consulting and supporting the workforce during a carefully planned transition, minimising disruption to staff.

12. Will NHS England and NHS Improvement staff be affected?

- For NHS England and NHS Improvement staff, this has been a long-standing direction of travel with many staff already supporting ICSs directly and some working within or alongside ICS teams. We believe this has and will continue to, create attractive opportunities, focussed on the needs of patients and communities.
- With the continued development of this policy NHS England and Improvement staff in some areas will be affected depending on which function they are performing. We have heard support for this direction of travel and are engaging colleagues to define the impact on staff as we move towards embedding current NHSEI direct commissioning functions in ICSs.

- If legislative change is agreed and if any NHS England or NHS Improvement functions are to transfer to newly created organisations or reshaped within NHSE/I as a consequence, the same employment commitment to continuity of terms and conditions would apply to those colleagues directly impacted.
- We will promote best practice in engaging, consulting and supporting the workforce during a carefully planned transition, minimising disruption to staff.

13. Will there be a national HR framework to support the transition?

There will be a set of HR principles developed nationally to support this transition and these will be available in April 2021. The aim of these principles is to provide a framework for a consistent approach, including the employment commitment, but to enable local implementation, recognising the differences in systems across the country.

14. Will there be national guidance for appointments to the roles in the new NHS ICS body?

There will be national guidance to support appointments to the new roles in NHS ICS body as specified in the legislation.

15. How has our commitment to support staff changed since the recent engagement?

- The reference to the employment commitment only lasting until 2022 has been removed in recognition of the different forms each transition journey is likely to take locally.
- Clarity that the commitment relates to colleagues below board level only but also applies to people in CCGs, NHSEI and NHS providers across the health and care system if they are affected by these legislation changes.