

Choice and competition – *The Health and Social Care Act 2012*

“To me, competition in the NHS means British Red Cross volunteers being able to help more people adapt to life back at home after a lengthy spell in hospital, so preventing the need for readmission... Do we want less of this, or more? To me – and I suspect most of us – the answer is obvious. The people who rely most on the NHS are the vulnerable, the very people, indeed, who charities were set up to help precisely because they were let down by the status quo.” *Stephen Bubb, Chief Executive of ACEVO, (January 2011).*

Context

1. We want the NHS to deliver high quality services for patients, and value for money for taxpayers. Choice and competition are powerful means to achieve this aim.
 2. There is emerging evidence of the benefits of competition in the NHS. Where there is *competition and choice of hospital provider* it leads to better outcomes, satisfaction for patients and better hospital management.
 3. The Act does not change EU or UK competition and procurement legislation. It also does not introduce or extend the previous Government’s policy of patient choice of any qualified provider.
 4. What the Act does do is create a framework in which choice and competition (on quality, not price) can operate, including appropriate safeguards. Currently, there is not a robust framework tailored to healthcare able to protect patients.
 5. Our approach is to focus on protecting patients rights to choice; ensuring good value for taxpayers’ money; and addressing abuses that act against patients interests.
- Key legislative changes*
6. The Act provides for Monitor to become a sector specific regulator for healthcare, with an overarching duty to protect and promote the interests of people who use healthcare services. This would mean that competition issues are considered and the rules applied by a regulator who knows and understands the NHS –something the NHS Future Forum stressed is crucial.
 7. As now, it would be for commissioners to take decisions on when and how to use choice and competition to improve services, in line with guidance from the NHS Commissioning Board and the choice mandate set by the Secretary of State.
 8. Monitor’s role in respect of competition would be to tackle specific abuses and unjustifiable restrictions that demonstrably act against patients’ interests. It is not to promote competition as an end in itself or to promote the interest of private providers – as we made clear following the NHS Future Forum report.
 9. Monitor would have powers to tackle abuses by providers through its licensing powers and, where relevant, by applying the Competition Act 1998. For example, Monitor could take action against a provider restricting patient choice.
 10. For commissioners, Monitor would enforce regulations made by the Secretary of State to ensure that good procurement practice is followed, that patient’s rights to choice are protected and promoted and that restrictions of competition that are not in the interest of patients and the public are prevented. This builds on existing guidance and rules for commissioners.
 11. For example, in determining where there may be overriding benefits to patients of limiting competition – such as the concentration of specialist services in regional centres or in providing services through a clinical network.

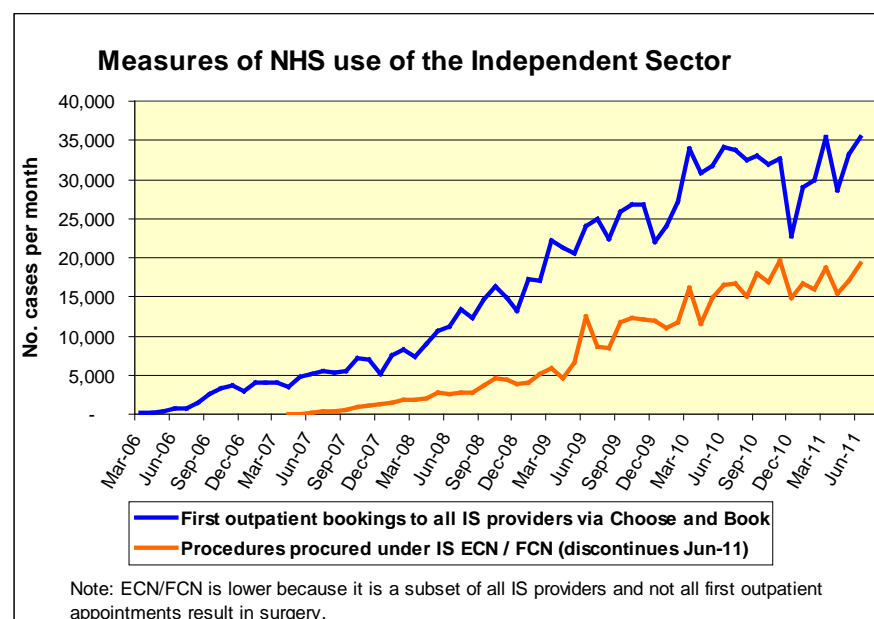
Factsheet C4 provides details regarding choice and competition and the Health and Social Care Act 2012. It is part of a wide range of factsheets on the Act, all available at:
www.dh.gov.uk/healthandsocialcarebill

INNOVATIVE NEW PROVIDERS

We want patients to be able to choose the best services for their needs – whether this is from an NHS, third sector or independent sector provider and the Act strengthens patients ability to do so. We want to see more new high quality, innovative providers such as the wound healing services provided by Test Valley Community Services (TVCS) in Eastbourne:

- TVCS Ltd was established in 1999 by Sylvie Hampton, previously Tissue Viability Nurse at Eastbourne DGH, and Fiona Collins, previously Senior Lecturer in Occupational Therapy at University of Brighton. Sylvie has an international reputation for healing wounds and Fiona for preventing pressure damage, particularly in the seated patient.
- In January 2008, TVCS opened a Wound Healing Clinic in Eastbourne – the first nurse led complex wound health clinic in the UK specialising in the prevention and management of wounds. They aim to offer patients the right treatment at the right time and in the right place for their wounds.
- As the clinic meets the quality standards required by required by the local PCTs and can demonstrate that they deliver the results the PCT wants for its patients, the PCT can offer patients the choice of being treated at the clinic as well as local NHS providers.
- The Wound Healing Clinic has both a high success rate and is cost-effective.
- 82 per cent of patients have their wounds healed over a six-week period - one of the highest in the UK. To put this into context, wounds have had an average duration of 3.3 years when patients arrive at the centre.

GREATER CHOICE



- Patients tell us they want more choice and control over their health and care; its something they increasingly expect from a modernised NHS.
- A wide choice of provider of elective care has been on offer since 2007. Over 200,000 patients a year choose to use an independent sector provider under existing choice policy and more choosing between NHS providers.

FURTHER INFORMATION

- [Choice and Competition Delivering Real Choice – A report from the NHS Future Forum.](#) (June 2011)
- [The Department's response to 38 Degrees' legal advice on the application of procurement and competition law.](#) (Sept 2011)

For more information on the emerging evidence around choice and competition in health care see:

- [Death by Market Power: Reform, Competition and Patient Outcomes in the National Health Service. NBER Working Paper No. 16164.](#) (July 2010)
- [Does Hospital Competition Save Lives? Evidence from the NHS Patient Choice Reforms. \(Cooper, Gibbons, Jones and McGuire\). Working Paper 16/2010. LSE Health.](#) (Jan 2010)