



NHS CONFEDERATION RESPONSE TO THE CONSULTATION ON FAIR AND TRANSPARENT PRICING FOR NHS SERVICES (DECEMBER 2012)

1. ABOUT THE NHS CONFEDERATION

1.1 The NHS Confederation is the only body to bring together the full range of organisations that make up the modern NHS to help improve the health of patients and the public. We are an independent membership organisation that represents all types of providers and commissioners of NHS services. We speak for the whole of the NHS on the issues that matter to all those involved in healthcare. We also reflect the diverse views of the different parts of the healthcare system.

1.2 We welcome the opportunity to contribute to the Department of Health consultation on proposals for objecting to proposed pricing methodologies. We believe the way the NHS pays for services does need reform and that commissioners and providers should be as engaged in these changes as possible, both now and once the new system is operational.

1.3 Our response primarily highlights concerns and issues attaining to:

- Support for commissioners and providers
- Accuracy of data used in price methodologies
- Reflecting quality in pricing
- Encouraging co-ordinated services and integrated care
- Alignment of NHS organisations in the new system

1.4 This document forms the NHS Confederation's overall response to the new pricing system and we expect that responses to future consultations next year will build on what has been expressed here. This response should be considered together with the response from the NHS Partners Network, which represents independent sector providers of NHS services and is part of the NHS Confederation.

2. GENERAL COMMENTS ON NHS PRICING

2.1 The demands currently placed on the NHS underline the importance of needing to support both commissioners and providers to adapt. The pricing system plays a crucial role in facilitating this support and will be as essential in the short term, as it is in the long term. In particular, the pricing system must help to support commissioners and providers to respond to three central challenges on finance, quality and care.

2.2 On finance, our members are facing the twofold pressure of decreasing funds and increasing costs. As part of the QIPP programme, they are tasked with finding unprecedented efficiencies that make up for an effective reduction of almost a fifth of the system's funding base by 2015. Our members have indicated that they are meeting this challenge, but are concerned that many of the "low hanging fruit" are running out.¹ This takes place at a time when demand is noticeably growing.

2.3 For providers, this is most evident in the pricing of accident and emergency services, where demand is increasing but not in line with funding. This is mainly due to a 30%

¹ NHS Confederation (2012) - 2012 Member Survey: Summary results and NHS Confederation response



marginal tariff that pays providers a reduced amount for activity above a specific baseline. If the cost for delivering a service outweighs the price paid for it, this can put providers in a position of having to cross-subsidise in order to remain financially sustainable, which effectively causes many of our members to run essential services at a loss.

2.4 It is important that the pricing system assists commissioners and providers in remaining financially sustainable, while maintaining an appropriate share of risk and gain within the system. This includes having a better understanding of the costs to providers in delivering a service, as well as appreciating local conditions that might make it harder for commissioners to balance their budgets. The information currently used as basis for pricing can be inaccurate and although we are supportive of current proposals from Monitor to pilot granular patient-level information and costing systems, we believe there is still work needed in this area.

2.5 On quality, the big challenge for our members is making sure that financial stability is not pursued to the detriment of the quality of care for patients. Quality indicators currently suggest that the NHS has been able to maintain high standards, despite the onset of a difficult financial environment. Yet, as the Department's recent consultation into adult social care services highlighted, there is a link between the operational performance and the financial performance of a provider.

2.6 As a result, it is important that the pricing system not be used as a tool for incentivising efficiency, through regular deflation, unless the Department is sure that it will not have a detrimental effect on quality. The Department should also be keen to ensure that any perverse incentives currently in the system are removed and that prices adequately reward providers for delivering high-quality services.

2.7 A good example of where this may not currently be the case is the non-payment for acute hospital readmissions, as highlighted by the research findings of Professor Peter Smith and his colleagues at the Imperial College Business School. Prof Smith's research showed that providers may sometimes be punished for delivering a better quality outcome by not reimbursing the cost of patients readmitted after a successful treatment due to frailty.²

2.8 Finally on care, we believe that the NHS is starting to move towards delivering more services around the needs of patients. The NHS has traditionally been good at dealing with short and episodic treatment cycles, but the needs of patients now seems to be more focused on their continual conditions. This reflects the fact that the NHS is now treating an older population, who tend to stay in hospital much longer and often have more complex long-term conditions with multiple medical needs.

2.9 Payment by Results, which is the predominant method used to pay for elective and emergency activity services in the NHS, has established uniform prices to drive efficiencies and to increase activity. However, it is becoming increasingly evident that in some areas it is not fit for the purpose of encouraging services that are integrated and focused around the needs of patient. We are encouraged by recent moves towards bundled payments and capitated budgets for reimbursing some treatments, in particular

²Laudicella, Li Donni and Smith (2012) - Hospital readmission rates: signal of failure or success?



through the piloting of year of care tariffs. It is important that the new pricing system incentivise providers to co-ordinate services and facilitate more integrated care.

2.10 It is useful at this point however to reiterate that the pricing system does not simply rely on Payment by Results, although it is dominant. As such, we believe that the objectives and principles for pricing should be considered through all the ways that services are purchased.

2.11 We also want to reiterate the concerns that we have over the alignment of new bodies and regimes, which we have raised in previous consultations. In regards to pricing, our concerns relate to the relationship between Monitor and the NHS Commissioning Board (NHSCB), which will need to work together to establish and oversee the new system. In particular, it would be useful to have further clarity on how Monitor will overlook the potential conflict of interest in wanting to set higher prices for FTs, which they have financial regulatory role over, and similarly for the NHSCB in wanting to set lower prices to help balance the budgets of CCGs, over which it has a responsibility.

3. SPECIFIC COMMENTS ON THE CONSULTATION

3.1 We welcome the proposals in the consultation and are encouraged that the proposed system appears to be a step forward in terms of engagement and accountability. We would recommend that the reforms continue in this regard and that the best way to ensure objections to proposed price methodologies are kept to a minimum is by engaging commissioners and providers as far as is possible. This would allow them to raise concerns early in the process and will reduce the potential for any surprises in the final National Tariff document.

3.2 We do believe that more clarity is needed about the role that NHS trusts will have in the scope of the new pricing system. It is becoming increasingly obvious that some trusts will struggle to reach FT status by 2014 and yet very few reforms to be introduced over the next two years seem to have factored them into their proposals. This consultation does at the very least recognise NHS trusts, in so far as using their cost data as a basis for setting prices, yet more issues may need to be resolved if they continue in their current form beyond 2014.

3.3 In particular, the exemption of NHS trusts from the proposed NHS provider licence means that within current proposals they are not under the same pricing requirements as licence holders. Instead, they will be governed by the NHS Trust Development Authority, which seems to have no role in the new pricing system. This may be significant when considering that organisations which remain as NHS trusts beyond 2014 will likely be those that have more acute concerns relating to pricing.

3.4 One important theme from this consultation seems to be the need to ensure that objections to the proposed pricing methodologies be kept to a minimum. This is understandable given that revisions and referrals could delay the publication of the National Tariff, causing significant disruption. However, we are not certain that objectives need to be deterred to the extent that has been laid out, given that there are already important reasons why commissioners and providers will not want to lodge an unnecessary objection. This includes the potential of having to pay for the costs of both Monitor and the Competition Commission in reviewing the objections.



3.5 In this regards, we would also be keen to make sure that the Competition Commission will be in a position to fulfil the duties expected of it in these proposals. Certainly, it would appear to be a difficult task for them in having to respond to all objections coming from a range of commissioners and providers for a range of services, within such a short timeframe. The recommendation in the consultation for developing a more sophisticated objection threshold by service, which is suggested to pose too heavy an administrative burden on Monitor, could in fact be beneficial for the Competition Commission in reviewing objections.

3.6 Our final comments would be to identify that the proposals are likely to give more influence to those providers that generate more turnover from National Tariff. This could shift the balance of power in price-setting, or at least through the objection process, from some of traditional providers that generate a large percentage of their income from non-tariff services towards other providers that deliver services mostly on the tariff. While we have no specific views for and against this shift, we think it is important that his impact be acknowledged.
