

Written evidence submitted by Michael Vidal (HSC0009)

1. This submission is limited to dealing with a perceived lacuna in the proposals contained in the White Paper. The apparent lacuna is the absence as far as I can see it of any mention of the need for the involvement of patients and the public. This raises an interesting anomaly. If an NHS Trust or an NHS Foundation acting independently of the ICS wanted to make a service change that engages s.242 of the NHS Act 2006 then it would have to involve patients and the public. However, if the same change is proposed by the ICS then, as I understand the proposals, there will be no such obligation to involve patients and the public.
2. There has been an obligation to involve patients and the public for at least 35 years. In general, this duty has been imposed on specified organisations. The current arrangement is not optimal. As far as CCGs and NHS England are concerned the duty can be found in s.14Z3 and S.13Q of the NHS Act 2006, respectively. For NHS Trusts and NHS Foundation Trusts the duty is found in s.242 of the NHS Act 2006. The wording between the various provisions is similar but not the same.
3. As things stand due to the wording of the statutes Sustainability and Transformation Partnerships and ICSs are under no statutory obligations to involve patients and the public. Rather confusingly though the individual NHS organisations that are part of these bodies are this causes confusion especially when NHS England imposes requirements for steps to be taken by a particular date. The question arises whether the obligation to involve patients arises and if it does can the duty be complied with in time.
4. The absence of any mention of patient and public involvement was first raised before the Health and Social Care Select Committee by Sir Robert Francis, Chair Healthwatch England, during the select committee inquiry into NHS England's legislative proposals. It is, therefore, noteworthy that the issue is not addressed in the white paper when the other issues around workforce have been addressed.
5. In keeping with the recent trend to have duties around patient and public involvement organisationally based I would propose that there is a statutory subcommittee of each ICS that will advise the Board of the ICS on issues relating to patient and public involvement.

6. To ensure that lip service is not paid to this committee it should have a statutory remit to advise the Board of the ICS on whether patients have been properly involved in the developing the proposals before the Board and whether the points raised during the involvement have been addressed. The Board of the ICS must have regard to this advice in coming to any relevant decision. It follows from this that no proposal should go to the ICS Board without first going through the subcommittee first.
7. A model for such a committee can be found in the People and Places Committee of the City and Hackney Integrated Care Partnership which is part of the NEL Integrated Care System. The remit of this committee is in fact wider than the proposed remit as it covers sustainability as well as equality and diversity. The reason for my proposal for the statutory subcommittee is if there is genuine involvement and engagement and importantly local people can see their views have been considered there is less chance of a legal challenge. In the event of a disagreement between the subcommittee and the Board the Local Authority Health Scrutiny Committee shall investigate the issue and make non-binding recommendations.
8. As there is a possible overlap between the work of the subcommittee and the Local Healthwatch Organisation the two should work together to ensure that the views of patients and the public are captured.
9. I have had the opportunity of reading the submission from Healthwatch England and I fully support the proposal in paragraphs 3.2 – 3.6 of their submission. In as far as this proposal goes further than the Healthwatch England proposal it is to be seen as a companion to those proposal. The reason for this is that while a seat for a Local Healthwatch Organisation on the Board of an ICS would be advantageous it is my experience too influence a Board level decision input is needed before it goes to the Board as it is almost impossible to change a decision at that stage.

About the Author

I have been involved in Patient and Public Involvement for around 11 years. I was a member of the Patient and Public Advisory Group of NHS London. I was instrumental in the setting up of both Hackney Local Involvement Network and Healthwatch Hackney.

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