David Bennett,

Chief Executive,

Monitor, Wellington House  133-155 Waterloo Road SE1 8UG

November 7th 2014

Dear David,

I am writing to raise with you the position of the Monitor in relation to the rights of communities in influencing and determining the configuration of health services provided in their areas. We are interested to know whether you have considered providing advice to FTs, when responding to claims from local communities for significant variations to local services, or when communities challenge decisions to close or substantially modify local services. I was thinking particularly of the situations in Mid Staffs and South London, and particularly in relation to decisions of the TSA, when they are opposed by local people, and also where commissioners in adjacent areas disagree about what would be the most appropriate healthcare provision for an area, in creating and providing long term sustainable provision?

In relation to the role of CCGs, as you know they have a duty to consult patients and the public about their commissioning intensions and decisions, and ensure that individuals to whom the services are being or may be provided are involved by being consulted, e.g.

·        In the development and consideration of proposals for changes in the commissioning arrangements, where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals in primary and secondary care and the range of health services available to them.

·        In decisions affecting the operation of the commissioning arrangements where the implementation of the decisions would have such an impact on patients or health services in the area.

I am sure you are very aware of the wording of 14Z2 of the Health and Social Care Act 2012.

My point is that a CCG in collaboration with Local Healthwatch and other organisations in the community, may well decide that a particular configuration of health and social care for an area meets the needs of the population for that area. It would seem to undermine their democratic rights, if that decision was to be negated by another body which has no local public accountability, except upwards to the Minister or to NHS England or to Monitor.

Whilst the sub-regional and wider health economy must be considered, current arrangements do not allow for that to happen in a way that meets local expectations in relation to democratic accountability as we usually understand it, e.g. through MPs, Councillors, CCGs, HWBBs and Healthwatch. This is particularly problematic where there is a conflict between the advocates of particular services to meet locally identified need, and regional pragmatism in relation to financial sustainability and in some cases clinical effectiveness.

Whilst the Monitor is are committed to FT providers in the regions being fully consulted, including in those situations where the TSA is involved, you do not seem to have a policy regarding the involvement of citizens in relation to their input into planning and development of proposals for new patterns of provision, in a way that is consistent with the vision of NHS Constitution, i.e. that:

·        The NHS belongs to the people.

·         The NHS provides a comprehensive service, available to all

·        The NHS aspires to put patients at the heart of everything it does.

·        The NHS is accountable to the public, communities and patients that it serves.

Whilst Monitor believes that the TSA must have the freedom and power to create solutions that deliver the best outcomes for the population involved, that does seem to be a very paternalistic model that ignores the wishes and needs as expressed and articulated by local people.

I wonder if you could comment on the issues I have highlighted above and give a response to some of our concerns:

1)         What rights communities should have to determine the type of healthcare that is provided in their area?

2)         How should the NHS respond to communities, where, as in the case of the Lewisham Hospital campaign, their aspirations were very different from those of the TSA and the Secretary of State for Health?

3)         Do the statutory rights available to local communities with respect to the determination of what services are provided locally need to be reviewed to give people more powers?

4)         Should communities have stronger powers to challenge decisions to reconfigure services where these decisions are seen not to be in the best interests of local people?  Can this be done without going to court?

5)         Should the IRP be made more publicly available to assist communities in the type of situations I have described?

I look forward to hearing from you with your comments on these issues.

Yours sincerely

Malcolm Alexander

Chair

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