

# National Association of Patients' Forums – Steering Group

## Local Government and Public Involvement in Health Bill

### Weaknesses of the Bill in Terms of Influence and 'Holding to Account'

The key difficulties with the Bill concern the way that it is likely to limit the capacity of patients and the public to exercise any real influence with local health and social care services. A critical problem is the failure of the Bill to create for LINKs any identity as an 'independent' body and the absence of powers to hold local health and social care commissioners to account. This is because the duties and powers are mostly vested in providers and commissioners rather than with the LINKs organisations. That the legislation should have evolved in this way is surprising given that the catalyst for recent legislation on PPI (e.g. Patients Forum and Section 11 of the Health and Social Care Act) derives from the findings and recommendations of the Bristol Royal Infirmary Enquiry (*Learning from Bristol: the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary 1984 -1995* Command Paper: CM 5207). Two of the key recommendations from this report (which were accepted by the Government) follow:

#### The planning and development of services

**13** The aim of a patient-centred service is that it be designed and planned to address the needs of the particular sectors of the public it exists to serve. Thus strategic planning at national level, including the priorities set by government, must have input from the public. Equally, at local level, the particular needs of the communities served by the NHS must also be acknowledged through involvement of these communities. This means involvement in the initial development of options for change as well as consultation on those options. Too often in the past, when major changes in service are needed, local communities have been excluded from the process of developing ideas and options. As a result, consultation has often been perceived by the public as a gesture or a sham. There are genuine and difficult problems involved in the re-organisation of local services, and the only way to gain public acceptance is to let in the public much earlier in the process.  
[http://www.bristol-inquiry.org.uk/final\\_report/report/sec2chap28\\_8.htm#950855](http://www.bristol-inquiry.org.uk/final_report/report/sec2chap28_8.htm#950855)

#### The operation and delivery of services

**14** As regards public involvement in the *operation* of the NHS, two concerns are central: safety in the care of patients and high quality in the delivery of the service. What we contemplate here is effective involvement of the public, at national and local levels, both in setting and reviewing the standards to be met regarding the safety and quality of care,

The overall effect of the imposition of such limitations on the operation of LINKs would be to undermine their independence and reduce public confidence and safety. The model presented for LINKs is unlikely to appeal to many members of the general public or patients, who are unlikely to get involved except in the most token and transient way.

### **Duties of services-providers to allow entry by local involvement networks – clause 225**

Although clause 222(2) places a duty on local authorities to enable *people* to monitor, and review, the commissioning and provision of local care services, clause 225 only places a duty on service providers to 'allow authorised representative to enter and view, and observe the carrying-on of activities on, premises owned or controlled by the services-provider.' Clause 225 (3) places numerous potential restrictions on the activities of LINKs members.

In practice, the duty on providers to allow LINKs members to 'enter and view and observe the health and social care' would not enable them to gather any useful information for monitoring purposes. To do this it is necessary to talk to patient and staff and have the freedom to enter as a right. The numerous examples of negligent care that occur in health and social institutions can rarely be identified by watching what happens in these institutions. Where they are discovered by PPI Forums, it is because of disclosure by a patient, relative or member of staff to a Forum member.

The duty to monitor the process and delivery of health and social care should be placed with the LINKs organisation in order to ensure that they are independent, rather than LINKs being beholden to care providers for the right of access.

LINKs should have a duty to raise issues of concern with any appropriate body (not only those referred to in 222(2)d(ii)). Such other bodies might include the Strategic Health Authority, Healthcare Commission and the Commission for Social Care Inspection.

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### **Access to primary care services**

It is not clear from clause 225 (7) whether the duty to provide access for LINKs to premises is intended to include access to the premises of GPs and other primary care providers (including the premises controlled by commercial providers of primary care services). The right of access to GPs surgeries is included in the current legislation covering Patient's Forums. Clause 225(7) might allow for those who control primary care premises to be required to allow access for LINKs but this will need to be clarified and stated explicitly in the Regulations.

## **Conflicts of Interest**

Although clause 223 deals with some of the conflicts of interest that could arise from the LINKs model, it does not deal with two key potential conflicts of interest:

- 1) Were a social care provider to become the 'host' (223(3)), there could be a conflict of interests if the 'host' were to provide local services, which the LINKs wished to monitor. As the 'host' is responsible for most of the arrangements on behalf of LINKs including writing their reports, it would be inappropriate and could seriously undermine the work of LINKs if the 'host' had both roles in the same geographical area.
- 2) As the membership of LINKs is informal, any group of people with a commercial (including voluntary organisations) or personal interest, could attempt to influence commissioning through LINKs in their own interests. Representatives of such organisations could produce (as LINKs members) damaging reports on services provided by the current service provider in an area, in order to gain contractual advantage in competition with the current service provider.

## **Resources to Fund LINKs**

Currently little information is available about the funding of LINKs. The key concerns are:

- 1) The resources should be adequate to meet the needs of a LINKs organisation in relation to its size. As there is no fixed membership the body could be very large and would require substantial funds to pay for their publications, advertising, public meetings, reports etc. in relation to the size of their membership.
- 2) LINKs will need shop front premises to create a real identity in the community and to provide a location for LINKs members to become known in the local community. If they are to succeed a return to the concept of the 'one-stop shop' for LINKs would create a powerful image in the community of an identifiable body that intended to serve the interests of the whole community.
- 3) The level of funding must be adequate to ensure that the LINKs can carry functions described in clause 222(2).
- 4) Funds going to the LA for the purpose of funding LINKs must be secured for that purpose and not available to meet other areas of LA expenditure.

## **Commissioning of Services**

## **Conclusion**

There is little tangible evidence in the Bill as it stands that LINKs would have any real influence on health or social care institutions. The function described for LINKs by the Department of Health, e.g. surveys, collecting views, gathering evidence, talking to the communities and reporting to commissioners would in practice be carried out by the Host. The Bill appears to create LINKs which will have few powers, little potential for raising standards of health and social care and would be unattractive to members of the community who wanted to develop better and more effective local services.

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June 19<sup>th</sup> 2007