Accountable Care Organisations – where is public engagement?

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We hear that NHS England faces a tough dialogue with the Treasury post-Budget and will, most likely get the go-ahead for its latest plan – to set up **Accountable Care Organisations** (ACOs). For some, it is a rational response to the failure of the Lansley structural reorganisation – a logical extension to the 44 STPs created in 2016. For others, it is the clearest yet pointer to a privatised NHS, USA-style.

We need not enter the controversy. Ours is a simple question. Where does this leave the statutory obligations to engage, involve and consult patients and public?

The term *'accountable'* should be a promising sign. But accountable to whom? And for what?

Early signs are that these new bodies will be consortia of providers cutting across traditional NHS and social care services, so the primary route of accountability is clearly contractual. Until primary legislation is changed, that means that CCGs remain responsible for commissioning services and as part of that, have an extensive requirement to involve and consult, covering their plans, service performance and proposals for change. Few Parliamentarians would support the removal of these rights. The prospects of key decisions being taken by obscure arms-length bodies beyond the reach of public accountability would be anathema to MPs whose constituents fully expect to have their voices heard.

We hear that ACOs will face a barrage of legal challenges across a wide range of disputed issues. But as far as public and patient involvement is concerned, this is unnecessary. All that is needed is for Ministers to clarify that ACOs will be bound by the well-established requirements to engage and consult that apply to single providers. We already have the confusing position that major service changes see CCGs bound by the statutory provisions in the 2012 Act, NHS Hospital Trusts still operating under the 2006 Act and local authorities wrestling with the 2014 Care Act and the 'legitimate expectations' of consultation on social care and other services.

In practice, common sense applies. Our experience as an Institute is that Managers are, in general, eager to consult local people as effectively as possible. Legal and political challenges only delay and frustrate their plans to implement change – many of which are needed to improve patient care.

The danger is that a BREXIT-battered Treasury may seize upon the ACOs as a means to accelerate its cost-reduction agenda by sidestepping the expensive and time-consuming processes of dialogue with local communities. Such an approach is a recipe for political turmoil, and the Parliamentary arithmetic suggests they would be foolish to try. All one needs is a handful of Conservative MPs in marginal seats with threatened hospital services to mount a rebellion.

On the subject of which, watch for the coming judicial review about Horton Hospital (re Oxfordshire CCG) in the coming days. For local people, their elected representatives, the media and for the staff who work in the NHS and at Councils, having such recourse to the Courts matters. For it is their ultimate assurance that Managers cannot by-pass the *duty to involve and consult* that Parliament has decreed. If the Government confirms that all these rights will apply fully to ACOs, it will do much to retain public confidence, avoid uncertainty and dodge the bullet of political turbulence.

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