Current Legislation Prevents Rapid Implementation of Some New Care Models …

- CCGs warn current legislation will prevent rapid implementation of some new care models
- Lancashire North and Cumbria are involved in on-going work to set up two ACS systems, but say commissioner roles cannot be transferred to a provider
- Restrictions have prompted proposals for a substantial boundary change for the CCGs
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Commissioning Chiefs in the North West have warned that current legislation will prevent rapid implementation of their plan to create *“accountable care systems”.*

The Clinical Commissioning Groups for Lancashire North and Cumbria are involved in on-going work to set up two ACS systems, which they see as critical to ensuring the sustainability of services.

One is being developed for the Morecambe Bay area under NHS England’s national “vanguard” programme, while the rest of Cumbria (west, north and east) is also discussing a separate ACS model though its “success regime”.

To fully realise the new model, the CCGs say many of their current responsibilities would need to transfer to the new ACS provider.

But an update sent to, and published by, Cumbria County Council, said: “The vanguard programme, for which Morecambe Bay’s Better Care Together is a first wave site, was established to accelerate progress towards such new models of care.

“However, it is now clear that issues such as primary legislation stand in the way of the rapid implementation of an ACS. *The 2012 (Health and Social Care) Act does not allow CCGs to delegate commissioning functions to a provider organisation.*

“We are exploring opportunities to move forward on this with NHS (England) as part of the vanguard work; but despite national support it does not appear that a formal resolution to the restrictions of the act will occur in the near future….It is unlikely that an ACS can be established before April 2018 at the very earliest.”

A legal expert on the subject, who spoke on the basis of anonymity, confirmed that current statute does not meet the ambition of what some areas want to do. The source said these areas had not yet persuaded NHS England of the need and urgency for legislative change.
In the meantime, he said there was a possible solution in which an ACS could “support a CCG to fulfil its functions”, in a similar way to commissioning support units, without the commissioning duties being formally transferred.
Another workaround could involve a more flexible approach to defining what is classed as commissioning, which could automatically enable some functions to be defined as provider functions and transferred.

In a fully functioning ACS, the CCGs said functions such as development of clinical pathways and informatics, support for GP practice development and medicines management, and commissioning of third sector services, would be transferred to the provider.

They said a “slimmed down commissioner(s)” would retain functions such as strategic planning, setting outcomes and agreeing a budget.

The paper, co-authored by accountable officers Andrew Bennett and Hugh Reeve, proposes a substantial border change for the CCGs in the meantime, so they are better able to focus on the respective ACS footprints. This would involve 35 GP practices in south Cumbria switching to join those in Lancashire North, effectively forming a “Morecambe Bay CCG”.

The paper said the restrictions of the act meant a “single leap” from the current set-up into two ACS models from April 2017 “is not possible, even if all the due diligence could be completed”.

ACS models aims to achieve better integration by bringing together management, oversight and funding of most heath and care services for a defined population.

NHS England has been contacted for comment.