

Some Common Claims and what to say to them

The responses we received from prospective parliamentary candidates (PPCs) contained some 'common themes' when they were opposing the NHS (Reinstatement) Bill (www.nhsbill2015.org/responses).

We've looked at these and put together some rebuttals, which we think are useful when arguing the point.

"GPs are best placed to commission"(Conservative)

"In my view, giving operational control for the day-to-day running of services to doctors was the right decision. The Government's health reforms have focused on the role of the GP, believing that they are best placed to commission local health services, as they have the best understanding of local needs."

Rebuttal

Before the Bill took effect

- GPs themselves were opposed to this supposed delegation of "operational control"¹ and few GPs had the "enthusiasm, time or expertise to take on the work involved"^{1,2};
- Three-quarters of respondents to a poll of members of RCG in 2012 said they thought it appropriate to seek the withdrawal of the bill.¹
- The Royal College of GPs called for the Prime Minister to scrap the Health and Social Care Bill in 2012, branding it "damaging, unnecessary and expensive".¹
- President of the RCGP at the time Clare Gerada said that the bill would "cause irreparable damage to patient care and jeopardise the NHS".¹
- In her final keynote speech to her college Gerada also said "in 10 years' time, I predict, the

NHS Act [HSCA] will be viewed as one of the historic misjudgements of all time".²

After the Bill took effect

- GP's now make up less than half of CCG board members which means GPs are in the minority when it comes to voting.² Much of the day-to-day work of CCGs is done by managers or commissioning support units.²
- Many GPs are already leaving their roles on CCGs due to general loss of interest as they realise that they don't have much influence in decision making.²
- Of the GPs who had no formal role in CCGs, only 38% felt their views were reflected in CCG decisions.³
- While funding is decided nationally it is up to CCGs to find ways of saving money by cutting services and rationing care all the while the budget

allocated to primary care has been reducing year after year.² At the same time GPs are discouraged by CCGs to refer to specialist/ hospitals to save costs,² Jeremy Hunt threatens to name and shame GPs who miss cancers.⁴ (Cancer usually needs referral to secondary care (a “specialist”) for diagnosis!)

- Cuts decided by CCGs can go ahead even if local GPs oppose them, as was the case for Lewisham A&E.² Jeremy Hunt pushed to take power away from GPs even further when he lost the Lewisham case by pushing through Clause 119 in the Care Act to allow a Special Administrator the power to close down hospitals with no input from the local GPs or hospital consultants.

- One poll showed that 73% of GPs believe they have been set up to take the blame for rationing health care.⁵

- There has been an unprecedented collapse in morale in general practice with recent polls showing more than a third of GP’s considering retirement in the next 5 years and almost a third considering moving to part time.⁶ Excessive workload and not enough time with patients has been cited as reasons for this.⁶

- According to Dr Maureen Baker (current chair of the RCGP) general practice is “on the brink of extinction”.⁷

“The NHS under the current government is the best in the world” (Conservatives)

“A Commonwealth Fund comparative report which looked into the performance of different national health systems recently concluded that the NHS, under this Government, is the best health service in the world, which is very welcome news.”

Rebuttal

- In the Commonwealth Fund report the UK indeed ranks first overall, scoring highest on quality of care, access to care (including cost related) and efficiency.⁸

- However, this report is based on surveys conducted in 2011, 2012 and 2013 and the Health and Social Care Act (HSCA) came into power in April 2013 and so it cannot be seen as a reflection of the current government’s policies on the NHS and most notably not a reflection of the impact of the HSCA itself.

- This report however should be seen as a testament to an NHS that was performing well when the conservative government took power which begs the question of why did Lansley propose these needless reforms in the first place?

- A King’s Fund report which came out this year which analysed the NHS under this government highlighted in fact that “The reforms (HSCA) took time and attention away from the work needed to maintain the improvements in care achieved in the previous decade within the funding provided by the government.”⁹

“Labour’s Bill will repeal the HSCA” (Labour)

“Labour is committed to bringing forward a bill to repeal the Tories’ damaging changes to the NHS...Labour’s repeal plan will ensure that the Secretary of State has a duty to provide a comprehensive national service which is free at the point of need, that private patients are not put before NHS patients, and that the conflicts of interest the Act has created are tackled. We will also ensure that the Secretary of State is able to give directions to the NHS.”

Rebuttal

The Labour Party’s private members’ Bill which was intended to overturn key parts of the HSCA (the Efford Bill) could not repeal the HSCA for several reasons:

- It does not re-establish the Secretary of state’s legal duty to “provide national health services in England”. Clause 1 of the Bill states “duty to exercise functions to secure provision” and Clause 3 states “duty to arrange provision” both of which are different from “Duty to provide or secure provision” which were present before the HSCA. This maintains the purchaser-provider split and competition at the CCG and Foundation trust level.¹⁰
- The Bill refers to the NHS as delivering services of “general economic interest” and

imposes this duty on the Secretary of State. This is a deferral to EU laws of competition although the EU commission itself refers to public hospital services/ National Health Service as services of non-economic interest.¹⁰

- The Bill does not stop the requirement imposed by the 2012 HSCA to transform all NHS trusts into NHS foundation trusts that would be subject to merger, closure or takeover by private companies should they fail to do so.¹⁰
- It was stopped by filibustering Tories in its committee stage before Parliament was dissolved. It now cannot become law. Another Conservative majority or majority coalition government will do the same thing to any Bill intended to overturn the HSCA.

“We need to keep commissioning/ purchaser provider split for non-routine care to relieve pressure on the NHS” (Labour)

“Labour’s Shadow Health Secretary Andy Burnham has stated that a future Labour Government would retain a care commissioning system – the so-called purchaser-provider split that Peter Roderick and Allyson Pollock’s NHS Reinstatement Bill seeks to abolish – but, crucially, with the NHS regaining its status as preferred provider. This model will give the NHS the certainty to plan and improve services, while ensuring that, at times of high demand, certain routine operations can be provided by the third or private sectors, so as to ensure that targets – such as on waiting times – are met.”

Rebuttal

The Reinstatement Bill is clear in stating that healthcare can be provided by other parties apart from the NHS. It doesn’t ‘ban’ them. What it does is restore the priority that private providers are allowed to provide healthcare with NHS money only if there is no alternative within the NHS. It brings to an end the practice of NHS organisations having to ‘compete’ with private providers and

each other, thereby wasting public money. This was never an appropriate model for efficient healthcare, and the purchaser-provider split is an aspect of the same model of marketization. It has no place in the NHS and it is wasteful. The cost of the internal market has been estimated at £4.5 billion annually.¹¹

“HSCA hasn’t encouraged competition” (Conservatives)

“There are no new competition provisions in the Health and Social Care Act – it simply codifies practices the old PCTs were obliged to follow under European law.”

Rebuttal

- Section 75 of the HSCA stipulates that CCGs have to prove that only a single provider can run a service or they must put out to tender.² It also prohibits commissioners from engaging in anti-competitive behaviour.²
- There have been examples of legal action taken against a CCG for “anti-competitive” behaviour such as the case of a local CCG in Blackpool being sued by private company Spire which owned the local private hospital for not tendering hospital services to them. Even though Spire lost this case, Monitor still recommended that in the future the CCG should “promote choice”.²
- This legal exercise intimidates CCGs and wastes funds that could be used for providing patient services in the NHS.²
- Contracts are increasingly being won by private providers. In an analysis of 3494 contracts awarded between April 2013 and August 2014, non-NHS providers (including private sector, voluntary sector, and other providers) had secured 45% of contracts awarded since April 2013 while 55% went to NHS.¹¹
- Clive Peedall: “The clever thing they said was, ‘We’ve made it illegal to favour the private sector’ – whereas actually what they did was make it illegal to favour the NHS.”¹¹

References

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