HFMA introductory guide to NHS finance

Chapter 4: NHS finance – the role of NHS England and NHS Improvement

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Overview

This chapter looks at what NHS England and NHS Improvement is, how it is structured and the role it plays in relation to NHS finance and governance. To remind yourself of where NHS England and NHS Improvement fits into the NHS structure, look back at the diagram on page 13.

4.1 What is NHS England and NHS Improvement?

NHS England[42] was set up under section 9 of the *Health and Social Care Act 2012*[43] and became fully operational on 1 April 2013. Until March 2013 it was called the NHS Commissioning Board (this remains its statutory name). Broadly, NHS England oversaw the commissioning side of the NHS.

NHS Improvement came into being on 1 April 2016, bringing together two separate arm's length bodies – Monitor and the NHS Trust Development Authority (NHS TDA). NHS Improvement is not a separate legal entity, it is an integrated management structure to allow Monitor and the NHS TDA to work more closely together. Broadly, NHS Improvement oversaw the provider side of the NHS, with Monitor holding responsibility for foundation trusts, and NHS TDA being responsible for NHS trusts.

From 1 April 2019, NHS England and NHS Improvement came together to form a single organisation, although remained legally separate. They have a single joint leadership structure and effectively operate as a single body. The *Health and Care Act 2022*[44] sets out the intention that, when enacted (currently anticipated as 1 July 2022), all legacy bodies listed above will be combined to form one legal entity known as NHS England.

Throughout this introductory guide, the organisation will be referred to as NHS England and NHS Improvement (NHSE&I) to cover all legacy bodies, unless it is necessary to highlight an individual body's current legal responsibility.

In constitutional terms, NHS England and NHS Improvement is an executive non-departmental body working at arm's length from the Department of Health and Social Care (DHSC) (i.e. it is a Department of Health and Social Care arm's length body or ALB). Although the organisations operate as one, under the current statutory framework NHS England and NHS Improvement cannot legally have one joint board or joint board committees. Each organisation retains its given statutory functions and NHS England cannot delegate its functions to NHS Improvement, and vice versa. The joint NHS England and NHS Improvement board governance framework has been designed to enable the boards together to have full oversight of the organisations whilst retaining their own board and board committees. The boards and the board committees therefore operate and meet in common. This allows the organisations to meet together, have joint discussions whilst having separate membership and take their own decisions.

NHS England and NHS Improvement has seven regional teams. The regions act as the local offices of NHS England and NHS Improvement with functions that include commissioning primary care and specialised services (see later in the chapter).

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[42] NHS England, *About us,* 2022
[43] UK Government, *Health and Social Care Act 2012,* 2012
[44] UK Government, *Health and Care Bill*, July 2021 – the Act was not available to reference at time of publication

NHS England and NHS Improvement is accountable to the Secretary of State for Health and the Department of Health and Social Care for meeting its legal duties and fulfilling its 'mandate'. In formal terms, the line of accountability runs from NHS England's accountable officer (the chief executive, as designated in the 2012 Act) to the Department of Health and Social Care's accountable officer (the permanent secretary) to the Secretary of State and Parliament.

The mandate[45] is a multi-year document that is updated and published each year. It sets out the objectives that NHS England and NHS Improvement is expected to deliver in the forthcoming year along with its financial allocation. As set out in the *Health and Social Care Act 2012*, NHS England publishes a business plan prior to the beginning of the financial year to set out how it intends to exercise its functions in that year and each of the next two financial years. An annual report is published showing how it performed. However, the 2021 white paper, *Integration and innovation: working together to improve health and social care for all*, proposes to replace the current legislative requirement to have a new mandate each year with a new requirement to always have a mandate in place. This will allow more flexibility to set longer term objectives and will enable the mandate to respond to changing strategic needs without having to wait for the annual cycle.

As with all ALBs, there is also a 'framework agreement' that sets out the working relationship and lines of accountability between the DHSC and NHS England and NHS Improvement along with financial requirements and relationships with other organisations (see chapter 3 for more about ALBs).

For 2019/20, in line with the *NHS long term plan* and ever closer joint working between the organisations, the NHS England mandate and NHS Improvement remit letter were combined into a single accountability framework[46].

NHS England and NHS Improvement is accountable to the DHSC for staying within its allocated resources (the 'commissioning revenue limit' allocated to it by the DHSC) as well as delivering a wide range of improvements to healthcare through a number of 'outcomes frameworks'. NHS England is also responsible for the functioning of the entire commissioning system and the associated budget and for reporting the consolidated financial position of itself and clinical commissioning groups (CCGs).

4.2 What NHS England and NHS Improvement does – roles and responsibilities

NHS England

Alongside the Secretary of State, NHS England has an overriding statutory responsibility for promoting a comprehensive health service that will 'secure improvements in the physical and mental health of the people of England and in the prevention, diagnosis and treatment of physical and mental illness'[47]. As well as general duties (for example, having regard to the NHS Constitution; exercising its functions economically, efficiently and effectively; securing continuous improvement and promoting innovation), NHS England has a number of specific statutory duties relating to:

- establishing and holding CCGs to account (for example, ensuring that there is a comprehensive system of CCGs in place and that each GP practice is a member of a CCG; authorising CCGs; providing continuous assessment of CCG plans; reviewing the performance and governance arrangements of CCGs and intervening where necessary to protect the public interest)

[45] Department of Health and Social Care, *The Government's 2021-22 mandate to NHS England and NHS Improvement*, March 2021
[46] Department of Health and Social Care, *NHS accountability framework 2019 to 2020*, May 2019
[47] NHS England's legal duties and powers are set out in sections 9 and 23 and schedule A1 of the 2012 Act.

- commissioning of services (for example, NHS England must commission directly those services specified in regulations – see below)
- partnership working/ co-operation (for example, a duty to co-operate with the Department, the Care Quality Commission (CQC) and the National Institute for Health and Care Excellence (NICE); meeting safeguarding duties for children and vulnerable groups)
- emergencies – to ensure that it and CCGs are properly prepared and resilient. In the event of a major incident, NHS England assumes responsibility for coordinating the input of all healthcare organisations
- finance – to manage overall expenditure on commissioning and administration and produce accounts that include the consolidated accounts of all CCGs. This is facilitated by the mandated use of a single financial ledger system called the integrated single financial environment (ISFE) that is designed to ensure consistency of reporting and simplify consolidation.

NHS England allocates funding to CCGs and holds them to account for the management of these public funds. It is also responsible for managing financial risk across CCGs.

As mentioned above, NHS England commissions some services itself (referred to as 'direct commissioning') – specifically:

- primary care services provided by GPs (this may be delegated to some CCGs via a co-commissioning arrangement- see chapter 5 for more details), dentists, opticians, community pharmacists
- specialised services[48] – in 2019/20 these accounted for £18.5bn of the annual NHS budget. Specialised services support people with a range of rare and complex conditions. They often involve treatments provided to patients with rare cancers, genetic disorders or complex medical or surgical conditions. Specialised services are not available in every local hospital because they have to be delivered by specialist teams of doctors, nurses and other health professionals who have the necessary skills and experience. Unlike most healthcare, which is planned and arranged locally, specialised services are planned nationally and regionally by NHS England. A good example is transplant surgery.
- offender healthcare (which includes high security psychiatric facilities)
- some services for members of the armed forces.

These services are commissioned by the relevant regional team using common 'single operating models' and reporting to a single board within NHS England. These models have been designed to ensure that all patients are offered consistent, accessible, high-quality services across the country.

In addition, although local authorities are responsible for commissioning some public health services, many of which are delivered by NHS providers, NHS England has a direct commissioning responsibility for some preventive public health services. These are commissioned through a model developed with stakeholders and include:

- the national immunisation programmes
- the national screening programmes
- public health services for offenders in custody
- sexual assault referral centres
- child health information systems.

[48] NHS England, *Specialised services,* 2017

In 2019/20 NHS England's direct commissioning activities accounted for £25.5bn[49].

NHS England is also required to carry out a number of other roles, including those set out below:

- setting commissioning guidelines
- allocating funding for the purchase of healthcare to CCGs
- developing model care pathways
- establishing model contracts for commissioning groups to use when commissioning services
- supporting CCGs as they develop their skills and capacity including promoting good practice
- determining the structure of future payment systems
- promoting and extending choice
- the roll-out of personalised care (see chapter 5 for more details)
- championing patient and carer involvement
- overseeing the cancer drugs fund.

The 2019/20 accountability framework set out deliverables against two overarching objectives – ensuring the effective delivery of the NHS long term plan and supporting Government in managing the efforts of EU exit on health and care. Within these objectives, NHS England was required to lay the foundations to implement the NHS long term plan, including the development of integrated care systems (ICSs); achieve financial balance; maintain and improve performance; improve the quality and safety of services; and establish a joint NHS England and NHS Improvement operating model.

NHS Improvement

NHS Improvement remains the sector regulator for health and social care, retaining the statutory functions set out for Monitor and the NHS TDA. Its role is to support all NHS healthcare providers (foundation and non-foundation NHS trusts) to deliver 'better healthcare, transformed care delivery and sustainable finances'. It aims to do this by supporting providers and local health systems to improve.

Monitor, within NHS Improvement, holds the remit to authorise and regulate NHS foundation trusts, ensuring that they are well led. The 2012 Act expanded this role to licensing all providers of NHS-funded care in England, including independent providers, under the duty of protecting and promoting the interest of NHS patients. In extreme circumstances, if licence conditions are breached, Monitor has the power to remove directors and governors, as well as revoking the provider's licence to operate. Monitor's regulation of providers is carried out in co-operation with CQC who also register providers against safety and quality criteria.

The NHS Trust Development Authority operates alongside Monitor as part of NHS Improvement, to monitor and support the performance of NHS trusts, through addressing sustainability and quality. In addition, the NHS TDA has responsibility for assessing mergers and acquisitions of NHS trusts by other NHS or foundation trusts. It is also required to approve significant commercial transactions by NHS trusts, or capital investments.

The dual roles of Monitor and the NHS TDA, means that NHS Improvement is able to hold the boards of individual NHS providers to account and intervene when necessary. There is more detail about the regulatory role of NHS England and NHS Improvement in chapter 12.

[49] NHS England, *2019/20 annual report* (page 161), 2020

Commissioning support units

At present, NHS England also hosts a number of commissioning support units (CSUs). CSUs provide both transactional and transformational support and services to many CCGs, helping them to deliver their commissioning role. This may be in the form of business support functions such as finance and human resources; providing data analysis and storage; developing the health needs assessment or handling media enquiries.

Arrangements between CSUs and CCGs are covered by service level agreements (SLAs) that set out the expectations and requirements of each party.

Each CSU is led by a managing director and operates with a governing body (but not a legal board). As they are part of NHS England, all hosted CSUs fall within NHS England's own governance arrangements.

Each CSU operates under an agreed NHS England operating framework. The operating framework includes the powers delegated by NHS England and reflects any additional conditions under which the CSU must operate. CSUs are required to break even with any profits reinvested into the business.

Regional teams

As noted earlier, there are seven regions – East of England, London, Midlands, North East and Yorkshire, North West, South East and South West. The regional teams are responsible for the quality, financial and operational performance of the NHS organisations in their region. Their core functions are focused on:

- healthcare commissioning and delivery across their geographies
- professional leadership on finance, nursing, medical staff
- specialised commissioning
- patients and information
- human resources
- organisational development
- assurance and delivery.

The regional teams also commission primary care services, although some CCGs may commission GP services themselves through joint or delegated co-commissioning arrangements (see chapter 5 for more details). Local professional networks (LPNs) are hosted by the regional teams and cover dentistry, pharmacy and eye health. They encourage service improvements for their local communities.

Clinical senates and strategic clinical networks

NHS England hosts 12 clinical senates across the country. Their role is to help CCGs, health and wellbeing boards and NHS England to make the best possible decisions about healthcare for the population they serve.

There are also a number of strategic clinical networks that are hosted by NHS England. These networks bring together those who use, provide and commission services for complex patient pathways, in order to develop integrated, whole system approaches. The clinical networks focus on

four main areas: cardiovascular; maternity, children and young people; mental health, dementia and neurological conditions; and cancer. However, regions can set up other clinical networks if there is local need.

4.3 How NHS England is financed

NHS England and NHS Improvement's budget is allocated to it by the Department of Health and Social Care. Most of this budget is then allocated to CCGs and used by them to commission services. For 2019/20 the total revenue budget allocated to NHS England and NHS Improvement to deliver the mandate was £123.4 billion with £104.2 billion (just over 84% of the total) allocated to CCGs. including monies for CCG running costs. NHS England and NHS Improvement's own administrative and programme costs amount to around £6.7bn and its direct commissioning (excluding that carried out for public health) accounts for £25.5bn. See chapter 10 for more details and a full breakdown of the 2019/20 budget.

NHS England and NHS Improvement also has a capital budget as part of the wider DHSC allocation. The total DHSC capital budget for 2021/22 is £9.4bn which includes £1.3bn for long term hospital building and upgrade programmes. See chapter 15 for more detail on capital funding in the NHS.

Key learning points

- NHS England has an overriding statutory responsibility for promoting a comprehensive health service that will 'secure improvements in the physical and mental health of the people of England and in the prevention, diagnosis and treatment of physical and mental illness'.
- NHS England and NHS Improvement has seven regional teams. The regions act as the local offices of NHS England with functions that include commissioning primary care and specialised services.
- NHS England and NHS Improvement's budget is allocated to it by the Department of Health and Social Care. Most of this budget is then allocated to CCGs and used by them to commission services.

Additional HFMA resources

The HFMA maintains a directory of resources which provides links to other HFMA outputs such as briefings and webinars across a range of subjects. It also highlights e-learning courses that are available. The directory of resources can be found here.