

Direct telephone: +44 (0) 20 7772 6369
Direct facsimile: +44 (0) 20 7772 6232
Email: cdhillon@rcog.org.uk



Royal College of
Obstetricians and
Gynaecologists

Setting standards to improve women's health

27 Sussex Place, Regent's Park, London, NW1 4RG

Telephone: +44 (0) 20 7772 6200

Facsimile: +44 (0) 20 7723 0575

Website: www.rcog.org.uk

8 October 2010

LIBERATING THE NHS: REGULATING HEALTHCARE PROVIDERS

Key Points

The Royal College of Obstetricians and Gynaecologists:

- ***Has concerns that the independence and autonomy of foundation trusts could destabilise local health care provision and reduce patient choice***
- ***Believes that perinatal networks based on integration of maternity and neonatal services will improve safety, clinical effectiveness and patient experience***
- ***Advises that such perinatal networks should be local, clinically managed and accountable to the NHS Commissioning Board***
- ***Recommends a continuum in women's healthcare which may be significantly jeopardised by the potential fragmentation of commissioning***
- ***Would welcome the opportunity to contribute to the leadership tasks inherent in the proposed reorganisation, with a realisation of the need to embrace change***

The Royal College of Obstetricians and Gynaecologists (RCOG), an international organisation, which includes all UK-based specialists in the discipline, welcomes *Liberating the NHS: Regulating healthcare providers*. This response represents the views of the leadership of the RCOG and its UK-based membership, whose views were sought as part of this consultation process.

1. ***Do you agree that the Government should remove the cap on private income of foundation trusts? If not, why; and on what practical basis would such control operate?***

No comment

2. ***Should statutory controls on borrowing by foundation trusts be retained or removed in the future?***

The statutory controls should be retained in order to safeguard the future of the NHS. The reckless behaviour of a few could have a huge impact on services for the remainder.

3. ***Do you agree that foundation trusts should be able to change their constitution without the consent of Monitor?***

No. The regulator should have a say in order to safeguard the future provision of NHS services.

4. ***What changes should be made to legislation to make it easier for foundation trusts to merge with or acquire another foundation trust or NHS trust? Should they also be able to de-merge?***

The RCOG has concerns about the level of foundation trusts' (FT) freedom because they may decide not to provide all services, thus limiting patient choice. The concept of FTs de-merging is of major concern because of the potential disruption to services. The RCOG is anxious about the potential conflict between the clinical aspirations of a network and the direction of a FT.

5. ***What if any changes should be made to the NHS Act 2006 in relation to foundation trust governance?***

No comment

6. ***Is there a continuing role for regulation to determine the form of the taxpayer's investment in foundation trusts and to protect this investment? If so, who should perform this role in future?***

No comment

7. *Do you have any additional comments or proposals in relation to increasing foundation trust freedoms?*

The foundation trusts must be accountable not only in the provision of quality to CQC and financially to Monitor but also in providing the appropriate healthcare needs for a particular population.

The RCOG is concerned that the consultation document refers only to local workforce solutions. We do of course need national planning to ensure the supply of a medical workforce for the future.

8. *Should there be exemptions to the requirement for providers of NHS services to be subject to the new licensing regime operated by Monitor, as economic regulator? If so, what circumstances or criteria would justify such exemptions?*

No

9. *Do you agree with the proposals set out in this document for Monitor's licensing role?*

Yes, but we are concerned that there is no reference to private healthcare providers.

10. *Under what circumstances should providers have the right to appeal against proposed licence modifications?*

No comment

11. *Do you agree that Monitor should fund its regulatory activities through fees? What if any constraints should be imposed on Monitor's ability to charge fees?*

No comment

12. *How should Monitor have regard to overall affordability constraints in regulating prices for NHS services?*

No comment

13. *Under what circumstances and on what grounds should the NHS Commissioning Board or providers be able to appeal regarding Monitor's pricing methodology?*

The Government provides finite resources for the provision of NHS services. If Monitor's pricing methodology results in a financial tariff which does not equate to the delivery of optimum standards of care, this may compromise service provision and clinical outcomes.

14. ***How should Monitor and the Commissioning Board work together in developing the tariff? How can constructive behaviours be promoted?***

They should work within the confines of the Government's commitment to a comprehensive NHS service, available to all, free at the point of use and based on clinical need. They should recognise excellent models of healthcare rather than base their methodology on average reference costs, developing incentives for excellent care in a stepwise manner.

15. ***Under what circumstances should Monitor be able to impose special licence conditions on individual providers to protect choice and competition?***

The rules and regulations for all providers must be the same.

16. ***What more should be done to support a level playing field for providers?***

The rules and regulations for all providers must be the same. In addition, the structure and level of tariff must be based on the patient journey and encourage transfer of patients for optimal outcomes within a network and potentially across boundaries at a national level.

17. ***How should we implement these proposals to prevent anti-competitive behaviour by commissioners? Do you agree that additional legislation is needed as a basis for addressing anticompetitive conduct by commissioners and what would such legislation need to cover? What problems could arise? What alternative solutions would you prefer and why?***

No comment

18. ***Do you agree that Monitor needs powers to impose additional regulation to help commissioners maintain access to essential public services? If so, in what circumstances, and under what criteria, should it be able to exercise such powers?***

Yes; to ensure the provision of high risk/complex services which are provided at regional or national level. In addition, to ensure equity of access and choice.

19. ***What may be the optimal approach for funding continued provision of services in the event of special administration?***

The RCOG believes that the tried and tested principles for other economies should be applied.

20. *Do you have any further comments or proposals on freeing foundation trusts and introducing a system of economic regulation?*

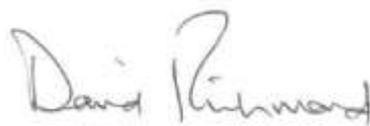
No comment

21. *What action needs to be taken to ensure that no-one is disadvantaged by the proposals, and how do you think they can promote equality of opportunity and outcome for all patients, the public, and where appropriate, staff?*

The potential for unequal provision of care is very real, if foundation trusts are given this degree of autonomy. There needs to be guarantees for the provision of core services for a community, ideally determined by public health input. Local health needs will determine what services are mandatory. The development of perinatal networks in maternity care should facilitate this but the accountability of such a system needs accurate definition.



Dr Anthony Falconer FRCOG
President



Dr David Richmond FRCOG
Vice President Standards