

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT NATIONAL HEALTH SERVICE  
COMMISSIONING BOARD (ADDITIONAL  
FUNCTIONS) REGULATIONS 2017

*Wednesday 1 February 2017*

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**Sunday 5 February 2017**

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**The Committee consisted of the following Members:**

*Chair:* PHILIP DAVIES

- |   |   |
|---|---|
| † Allen, Heidi ( <i>South Cambridgeshire</i> ) (Con)                        | † Raab, Mr Dominic ( <i>Esher and Walton</i> ) (Con)            |
| † Cooper, Julie ( <i>Burnley</i> ) (Lab)                                    | Reeves, Rachel ( <i>Leeds West</i> ) (Lab)                      |
| † Cummins, Judith ( <i>Bradford South</i> ) (Lab)                           | † Shapps, Grant ( <i>Welwyn Hatfield</i> ) (Con)                |
| † Fabricant, Michael ( <i>Lichfield</i> ) (Con)                             | Soubry, Anna ( <i>Broxtowe</i> ) (Con)                          |
| Johnson, Diana ( <i>Kingston upon Hull North</i> ) (Lab)                    | † Stuart, Graham ( <i>Beverley and Holderness</i> ) (Con)       |
| Kendall, Liz ( <i>Leicester West</i> ) (Lab)                                | † Trevelyan, Mrs Anne-Marie ( <i>Berwick-upon-Tweed</i> ) (Con) |
| † Kyle, Peter ( <i>Hove</i> ) (Lab)   |   |
| † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con)                 | Ben Williams, <i>Committee Clerk</i>                            |
| † Mowat, David ( <i>Parliamentary Under-Secretary of State for Health</i> ) |   |
| † Philp, Chris ( <i>Croydon South</i> ) (Con)                               | † <b>attended the Committee</b>                                 |

## Sixth Delegated Legislation Committee

Wednesday 1 February 2017

[PHILIP DAVIES *in the Chair*]

### Draft National Health Service Commissioning Board (Additional Functions) Regulations 2017

2.30 pm

**The Parliamentary Under-Secretary of State for Health (David Mowat):** I beg to move,

That the Committee has considered the Draft National Health Service Commissioning Board (Additional Functions) Regulations 2017.

It is, as ever, a pleasure to serve under your chairmanship, Mr Davies. These regulations deal with the transfer of a business unit, the Commercial Medicines Unit, from the Department of Health into the NHS Commissioning Board, usually referred to as NHS England. The details are set out in the explanatory note, in particular paragraph 7, but I will tell the Committee in broad terms what the Commercial Medicines Unit does and why we feel it is time to transfer it from the Department of Health to NHS England.

There are 35 to 40 staff in the unit, principally at Runcorn and Reading, and their role is to procure, conclude and manage a set of framework agreements that are used within NHS England to purchase medicines in the hospital sector. About £8 billion total throughput is involved, of which £2.6 billion relates to framework agreements. There is an estimated saving in excess of £100 million a year from having the framework agreements, which cover drugs, medicines and services.

The process is that typically NHS organisations—either the specialised commissioning function or hospital pharmacists—identify areas where it would be of benefit to have framework agreements: perhaps there is going to be a drugs increase or an increase in volume of a particular item. This group sets up those agreements; they negotiate them with the suppliers, put them into place, and make them available for use in hospitals throughout the country. When the drugs are used they are paid for by the NHS. There is clearly a bit of a divide in that the NHS initiates and then the frameworks in the Department of Health and then the NHS do the back end in terms of specialised commissioning and paying for them.

The Carter review, which looked at efficiency across the hospital sector, identified this as an area that we should consider putting back from the Department of Health into NHS England. The view is that that is a logical thing to do at this stage. The regulation would regularise the way that business is carried out.

**Michael Fabricant (Lichfield) (Con):** Concern was expressed at Prime Minister's Question Time a couple of hours ago that various parts of the NHS might be sold off in any future agreement between the United States and the UK. Will my hon. Friend confirm that

the transfer of this unit to NHS England does not make it any more vulnerable? Perhaps he might like to comment on the Prime Minister's view regarding any such sell-off.

**The Chair:** Order. Despite Mr Fabricant's attempt to try to widen the debate to the privatisation of the NHS and trade deals with America, I would be grateful if the Minister ignored his advances and stuck to the subject that we are debating.

**David Mowat:** Thank you, Mr Davies. On this occasion, I will ignore my hon. Friend's advances. I will make the point that what we are doing with the regulations is nothing to do with privatisation or any such decision. This is an operational function carried out in the public sector that is being moved from one part of the public sector to another part of the public sector. The rationale is to consolidate the procurement expertise in the health system in one place and it is felt that that would provide business benefits.

The National Health Service Act 2006 does not permit this fairly routine transfer of a business function, so these regulations are necessary. In essence, there are three things in the regulations. There is one power that we seek to give to NHS England and two duties in respect of the transfer. The power is for NHS England to take over the business function currently being done within the Department of Health—in other words, to negotiate, procure and manage those framework agreements. That is the first part of the regulations.

The second part imposes a duty on NHS England to replicate the advice that the unit gives the Secretary of State from time to time in the discharge of his duties more generally in the health system, be it on medicines pricing, benchmarking or issues of that sort. We are formalising that duty. The rationale is that the new group within NHS England will have a duty to talk to hospital pharmacists—the people who make the purchases and are responsible for the drugs. The duty to consult, which is currently undertaken by the Department of Health, will continue in NHS England.

In summary, we are moving an operational function from the Department of Health, which really should be concerned with strategy, not operations, into NHS England to achieve better procurement results over time. Staff who will be transferred will suffer no detriment whatsoever. For example, they will move from one pension scheme to another. It would be a TUPE process if this were the private sector; it is a public sector version of that. Either on terms or locations, there will be no staff impact. I commend the regulations to the Committee.

2.36 pm

**Julie Cooper (Burnley) (Lab):** It is a pleasure to serve under your chairmanship, Mr Davies. I am grateful to the Minister for outlining the detail of this statutory instrument. I am happy that this is an operational procedure involving a transfer of functions, and that there are no greater implications. We will not oppose the regulations, but I would like to make a few brief comments.

The regulations provide for the relocation of an operational unit from the Department of Health to the NHS Commissioning Board, and in so doing confer additional powers and duties on the board. No substantial

change is envisaged in the way those duties and activities will be carried out, nor will there be any material change in the end result.

Regulation 4 gives the board a new power to manage contract agreements with suppliers and manufacturers of services, drugs, medicines and other products for the purpose of preventing, diagnosing and treating both physical and mental illness. That will result in the sharing of expertise and a co-ordinated approach between the team responsible for the function and teams responsible for specialised commissioning. That potentially will have a beneficial impact on value for money and quality of services and lead to reductions in geographical inequalities, which we welcome.

**Michael Fabricant:** Does the hon. Lady share my view that if the ownership of that department, which is currently based in London, is to change, it would be rather nice if it could be moved to the provinces?

**Julie Cooper:** I am always happy to see departments move out into the provinces, particularly the northern provinces.

We have no objection in principle to the transfer of these functions from the Commercial Medicines Unit. We recognise that the board will still be bound, by virtue of the connected functions outlined within the 2006 Act, to promote a comprehensive health service in England that is designed to secure improvement in the physical and mental health of the people of England and in the prevention, diagnosis and treatment of physical and mental illness.

Obtaining value for money within the NHS is a priority for us. There is now widespread acknowledgment that the NHS is underfunded. All contractual efficiencies are therefore welcome, provided they do not compromise patient access to medication and so on. We are aware that the use of framework agreements to purchase secondary care medical services and products has led to considerable savings for the NHS to date.

Our primary concern is always to ensure the greatest possible access to medication and other therapeutic and

diagnostic products for patients. We would not support any attempt to ration treatments and put financial interests before medical need. We welcome the requirement in regulation 6 that places a duty on the board to consult and collaborate with every NHS trust and NHS foundation via a registered pharmacist. This will ensure that there is no loss of effective communication channels and will guarantee continuity of supply of medicines and related services for patients. I am satisfied that all staff will be guaranteed continuity of employment, and terms and conditions will be protected upon transfer. I can confirm that we will not oppose this statutory instrument.

2.40 pm

**David Mowat:** I thank the shadow Minister for her comments. We all want to see value for money for the NHS. The NHS spends £16 billion a year on drugs and the unit is one of the mechanisms by which that spend is kept as low as possible. We have reason to believe that the unit does a good job. We believe it will do an even better job when it is formally moved into the NHS in the way set out in the regulations.

On the move to the provinces that was mentioned earlier, I am with my hon. Friend the Member for Lichfield on that, but perhaps I can put his mind at ease. The majority of the people affected by the new functions are located in Runcorn, which is in the provinces and close to my constituency. I can confirm that they will not be moving from Runcorn, although I agree with his direction of travel on these things.

I thank members of the Committee for their attendance this afternoon. The unit performs a key role that is better done in NHS England than in the Department of Health, because it is an operational role. We wish that to continue and I am sure everyone in Committee wishes the people responsible for procurement in the NHS all the best in the very important job they do.

*Question put and agreed to.*

2.42 pm

*Committee rose.*

