



## **Briefing Note:**

### **Health Bill 2009**

Mike Hurst, 21<sup>st</sup> January 2009

The Health Bill was introduced into Parliament on 15<sup>th</sup> January 2009 and published on 16<sup>th</sup> January 2009. The Health Bill was announced during the Queen's speech on 25<sup>th</sup> December 2008.

#### **What does the Health Bill 2009 do?**

- Establishes a framework for the new NHS constitution (to be published shortly). This constitution will secure the enduring principles of the NHS, setting out the rights and responsibilities of patients and staff.
- Creates new quality accounts. This measure is designed to drive up the quality of health services through a duty placed on providers of NHS healthcare.
- Enables the piloting of Direct Payments for healthcare. The Bill facilitates the further development of giving patients greater personalisation and control over the healthcare services they receive.
- Extends the Adult Social Care complaints procedure. The Bill extends the remit of the Local Government Ombudsman to enable him to consider complaints from people who arrange their own Adult Social Care, which will place such users on a similar footing to those adults who receive Social Care as arranged and/or funded by a Local Authority.

The Bill introduces further ancillary measures that need not be addressed in this bulletin.

The new terminology for 'Direct Payments in the NHS' will be 'Personal Health Budgets'. The new budgets are broadly similar to the recent piloting of individual budgets by certain Local Authorities.

The rationale behind the introduction of Personal Health Budgets is to support a cultural change that is intended to be created by a more personalised NHS. The NHS believes that only a relatively small number of patients might benefit from this provision.



The NHS, subject to the appropriate regulations, intends to make provision for the pilots under three broad categories of personal budget:

**1. Notional Personal Budget**

Patients are aware of the treatment options within the constraints of their budget and the financial implications of their choices.

**2. Real Personal Budget held by the System**

Patients are allocated a ‘real budget’ held by an intermediary, e.g. General Practitioner, Care Coordinator or Advocate on the patient’s behalf. The intermediary then helps the patient choose services within their personal budget.

**3. Real Budget as a Cash Entitlement**

Patients are given cash payments instead of service entitlement. Patients are expected to purchase their care services for themselves. This is the equivalent of Direct Payments in Social Care.

The Health Bill gives power to the Secretary of State to make regulations as to who would be entitled to a personal budget and how they are to be operated. At this stage, regulations have not been published but it is expected that the management of Direct Payments will be broadly similar to that operated by Local Authorities for Social Care.

Direct Payments will be made available through pilot schemes. These pilot schemes are intended to commence in the Summer of 2009, with details of the participating PCT’s being published in the Spring.

The pilot schemes are intended to run for three years before being rolled out nationally and will be subject to the approval of the Scottish Parliament and the Welsh Assembly if the scheme is to be extended nationally.

The availability of Direct Payments through the NHS, which will be available to both individuals with and without capacity, is likely to add fuel to the ‘double recovery’ fire. How the Courts will deal with the possibility of this potential future source of direct care funding will be interesting to see.

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