NHS Clinical Commissioners: Response to Fair and transparent pricing for NHS services: A consultation on proposals for revising the objection mechanism to the pricing method

(11 September 2015)

Introduction

NHS Clinical Commissioners (NHSCC), the membership body of Clinical Commissioning Groups (CCGs), is pleased to provide a formal response to the Department of Health’s consultation on Fair and transparent pricing for NHS services.

Established in 2012, NHSCC has 86% of CCGs in membership and we offer a strong national voice for CCGs. To develop this response we have engaged our members and our national Finance Forum. This response therefore represents the overall view of our 179 member CCGs. We have also encouraged our members to respond to the consultation as individual organisations.

General points

The rejection of the 2015/16 tariff demonstrates the need for the development of a more equitable objection process which accounts for the views of the whole health sector. Elements of the proposed 2015/16 tariff impacted a specific group of providers and benefitted a specific type of commissioner, objections were therefore voiced from those groups who felt they would be disproportionately impacted. If proposed changes on specialised commissioning marginal rates had been implemented with services transferred to CCGs, a situation could have developed whereby CCGs would have been paying full price on all activity with part of that activity seeing only half of the funding transferred from NHS England.

The uncertainty regarding the 2015/16 tariff has had an unacceptable impact on local planning. The most important discussions in the NHS are ones that happen locally, however, these are hampered by a lack of clarity on national prices. Health economies need to work together fairly and honestly to ensure pricing is set equitably for both providers and commissioners without passing deficits from one organisation to another. Tariffs should encourage both groups to work together to reduce deficits throughout the system while incentivising clinical best practice. Robust, clear and transparent national tariff guidance, in our opinion, removes the need for local debates on pricing that can often distract attention away from focusing on strategic sustainability plans, including local transformation, QIPP and CIPs.

We would emphasise the need for full and proper engagement with the health system as a whole to develop a greater understanding of the funding challenge and build whole system solutions thereby avoiding the need to use the objection mechanism at all.
Our response to the specific consultation questions

I. Do you agree that the objection mechanism for the NHS national tariff should be revised to provide greater certainty on prices in advance of a new financial year?

NHSCC agree on behalf of our members that the objection mechanism for the NHS national tariff should be revised.

We strongly feel that some form of objection method must remain in the system to ensure that in exceptional circumstances, where there is a lack of transparency or engagement, that providers and commissioners are able to prevent the imposition of unworkable tariff prices. We would firmly emphasise the use of the veto as a last resort only, the expectation is that it would not be used. If the tariff proposal is fair, workable and acts in the best interests for patients then organisations would not object.

In order to improve the system and better reflect the views of individual elements of the service, we suggest further evolution of the objection threshold to be more sector specific. One possibility could be that some sectors have their own objection thresholds set on relevant areas of the tariff to allow differentiation, for example mental health or specialised services. This would allow a more nuanced and reflective objection based upon the unique pressures faced by individual areas of the services.

II. Do you agree that the objection threshold based on providers’ share of supply should be removed? If not, why should this threshold remain? If it should remain, at what level should it be set?

We strongly support proposals to remove the objection threshold based on providers’ share of supply. There must not be a weighted balance towards a small number of large providers acting in their collective interests at the expense of the health system or service as a whole. We agree that a system that allows less than 40% of providers to have a veto over the entire pricing process is unbalanced and will not allow a fair reflection of the majority view. A more democratic objection process reflecting the true views of all providers and commissioners on an equal footing should be established.

As suggested in the consultation, Monitor should undertake a wide-ranging engagement process with large providers to ensure that their views are acknowledged as proposals are developed, however, these should be measured against the views of wider providers and commissioners.

III. Do you agree that the objection threshold for providers and commissioners should be raised and, if so, to what level?

We agree that the current objection threshold has presented some issues in previous years. If the threshold is to be raised we would be concerned that it should not be set at too high a level. Whilst there are different views about what the level might be from our members, overall and on balance we believe that the lower-end of the continuum within the range suggested, closer to 66%, would be more appropriate, although only alongside the development of a clear system of engagement. We believe that a threshold set at the upper level would prevent reasonable objection. The threshold must be achievable for providers and commissioners.

We agree that savings need to be released within the system as a whole. However, the imposition of pricing levels to achieve this, to which the majority of commissioners and providers object, would neither be equitable nor in the best interest of patients who would be affected by any enforced service reduction. Commissioners and providers are best placed to determine the impact of any change in the national tariff on patients and outcomes.

Furthermore the pricing system should be seen to be fair and equitable in order to foster the collaboration between providers and commissioners that is essential to the effective functioning of the whole health and care system. The ability to protest against pricing systems that are patently unfair create unhelpful barriers that prevent vital joint working.
IV. Are you aware of any equality issues or of any particular group for whom the proposed changes could have either a detrimental or differential impact?

There is some risk that small providers or providers delivering specific services for commissioners are particularly disadvantaged by the new proposals for a higher threshold as they may not have the leverage to object to a particular tariff issue which affects them directly. We would wish to avoid this potential unexpected consequence occurring.

V. Question 5: Do you consider there to be any significant impact on health services as a result of the proposed changes to the objection process?

The imposition of a tariff that is unworkable, unmanageable or inequitable on the health service as a whole, against the wishes of the majority of commissioners and providers as a result of a very high objection threshold, would have a detrimental impact on patient outcomes as local services would suffer.

Commissioners and providers are best placed to determine the local impact of any alterations to the national tariff, with objections raised on the basis of unreasonable impact to service rather than any self-interested motive.

If you would like any further detail on our response please do not hesitate to contact our Head of Policy and Delivery, Julie Das-Thompson at j.das-thompson@nhscc.org or Thomas Marsh, Policy and Networks Officer at t.marsh@nhscc.org.