Care Bill: House of Lords Committee stage briefing (4 June)
Briefing from the Royal College of Surgeons

This briefing from the Royal College of Surgeons (RCS) sets out our views on Part 3 of the Care Bill to be debated on 4 June. This complements the more general briefing we provided at second reading.

Our overall view
The RCS supports the proposal in the Care Bill to place Health Education England (HEE) and Local Education and Training Boards (LETBs) on a statutory footing. During scrutiny of the Draft Care and Support Bill we raised concerns that clinicians were excluded from the new education and training structures. We are pleased to see that the Care Bill now requires clinicians to be represented on both HEE and LETBs. We also welcome the strengthened requirements on all providers of NHS services to support education and training. However, there are still some areas of the Bill that can be improved or where clarification can be provided and we set these out below.

1. EDUCATION AND TRAINING

a) Health Education England (HEE) (clauses 83-89; and schedule 5)

We have been encouraged by the work of HEE to date. Medical Education England (which it replaced) acted in an advisory capacity but HEE is likely to have greater influence as it controls the education and training budget *and* acts as the body responsible for improving the quality of education and training.

We are pleased to note that the Secretary of State must publish before the start of each financial year a document which specifies the objectives and priorities that have been set for HEE **(clause 87)**. The RCS welcomed the Government's recently published Mandate to HEE, particularly the clarity it gave on the use of the health education and training budget.

Role of clinicians (schedule 5, part 1, paragraph 2)
During scrutiny of the Draft Care and Support Bill we raised concerns that clinicians were excluded from the decision-making structures in the education and training system. We are therefore pleased to see that the Care Bill requires that the boards of HEE and LETBs include persons with clinical expertise.[1]

We are aware that proposed amendments seek to clarify that HEE should seek advice from bodies such as medical royal colleges. The explanatory notes to **clause 89** make clear that HEE should seek advice from such organisations, and this was reiterated in the Government's Mandate to HEE, which explicitly said HEE should "establish mechanisms to

[1] See schedule 5, part 1, paragraph 2 and clause 91(3) respectively.

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ensure ongoing engagement" with a range of partners, including the royal colleges.[2] However, we feel **any further clarification on the face of the Bill** can only be helpful. We also encourage HEE and LETBs to work with the medical royal colleges to help inform accurate workforce planning, particularly around predicted future workforce numbers.

It is important to involve clinicians in education and training decision-making for a number of reasons:

- To improve doctors' and nurses' confidence in the new arrangements.
- To inform discussions about what courses or training may be necessary to specific training programmes.
- To inform workforce planning.
- To help spot problems with new systems. For example, the 2007 Medical Training Application System (MTAS) set up a new system for allocating junior doctors to jobs. It was widely criticised, not least for giving little importance to a candidate's past experience or examinations passed in a medical specialty. While some clinicians were involved, the medical royal colleges were not consulted from the start which undermined professional confidence in the arrangements. The Health Select Committee, for example, said the Department of Health failed to heed the warnings of royal colleges. It also noted that some clinicians, including Lord Ribeiro, resigned from the Douglas review group on the basis that it failed to address what went wrong with the selection process.

Accountability of the Centre for Workforce Intelligence

We agree with comments at second reading that clarification is needed about how the Centre for Workforce Intelligence (CfWI) will work with HEE.

The CfWI was set up in 2010 to advise the Government on long-range forecasts of workforce needs in the health and social care service. The CfWI is currently accountable to the Department of Health but the Bill is silent about its relationship with HEE despite the important role it plays in data analysis of the workforce. **We would welcome public clarification from the Minister about its intended relationship with HEE.**

b) Local Education and Training Boards (LETBs) (clauses 90-94; and schedule 6)

Role of clinicians (clauses 91 and 93)

We strongly support the requirement for LETBs to appoint board members with clinical expertise. The RCS believes it would also be helpful if **clause 93(4)** makes clear that a LETB should also involve local healthcare professionals when developing its education and training plans. We do not wish this to become overly bureaucratic, but taking into account the views of doctors and other professionals in local plans is important for getting the content of education and training right.

[2] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/203332/29257_2900971_Delivering_Accessible.pdf

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Education and training plans (clauses 93 and 94)
We also note that the requirements in the Draft Care and Support Bill on HEE to support continuing professional development[3] (CPD) have been dropped. CPD is important for health professionals to maintain and improve their professional skills and it is essential this funding is protected in the transition to a new education and training system. **We would like to see the Government set out how funding for CPD will be protected and amend clause 93 to be clear that LETBs need to set out how they will support CPD.**

We support the requirement in **clause 94** of the Bill for LETBs to keep under review the quality of education and training it arranges. We believe such reviews should also cover any complaints or concerns made to the LETB including how the Body has addressed any issues. This will help to ensure LETBs are reflecting independent expertise and it will provide more confidence in their quality assurance processes.

Conflicts of interest (clauses 90, 91, and 94)
We have raised concerns that some members of LETBs may encounter a conflict of interest in their role as both a commissioner of education and training services and a provider of healthcare services which will be responsible for the quality and training of their workforce. Many hospitals provide their own training courses meaning providers could commission from themselves. This will also become an issue when LETBs review the quality of local education and training.

Following the Government's consultation on the Bill, **clause 91(9)** now requires a LETB to appoint a chair independent of local healthcare and training providers. This will improve LETBs' independence. **Nevertheless, we would welcome clarification from the Minister about how LETBs will manage conflicts of interest.**

Independent sector's role in education and training (clauses 92 and 95)
The independent sector is playing an increasing role in the NHS – particularly in elective surgery. Although the independent sector only provides roughly 3% of all elective NHS care, for elective hip and knee surgery this figure rises to almost a fifth (19%).[4]

We therefore welcome the proposals in the Bill that strengthen the requirements on all providers to promote and engage with education and training. For example, we support the requirement in **clause 92** for all providers to co-operate with LETBs, including through the supply of data about their workforce. Putting a tariff for education and training on a statutory footing (**clause 95**) should also help the independent sector to provide education and training where appropriate.

However, during scrutiny of the recent competition and procurement regulations we raised a concern that it was unclear how the service commissioning processes for CCGs and NHS England would be aligned with the commissioning of education and training for LETBs. For

[3] See *clause 55 (subsection 5)* of the Draft Care and Support Bill.
[4] http://www.nhsconfed.org/Networks/NHSPartners/Pages/Data.aspx

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instance, what would happen if a LETB has an existing contract with a hospital-based training provider whose service is then de-commissioned by a CCG? **It would be helpful if the Minister can clarify how the two commissioning arrangements can be aligned.**

c) Routine visits of training programmes

The RCS already has a key role with our sister colleges in setting the standards for training programmes and assuring trainees meet these standards in order to complete their training. Quality assuring training providers, not just individuals, is therefore vital to ultimately improving patient care.

We would like to see royal colleges working with the General Medical Council (GMC) to take part in newly designed routine visits to local education providers as recommended by the Mid-Staffordshire Hospitals Public Inquiry. By working with the regulator we can avoid duplication of visits and minimise the impact on NHS staff. This needs to be appropriately resourced with the GMC and other regulators involving the medical professions in the site visit team. We will shortly be discussing this proposal with the GMC. To help facilitate the use of doctors and other clinicians in site visit teams **we would welcome a clear message from the Minister about the importance of trusts releasing staff to use their expertise**.

2. RESEARCH

As numerous reports – including a recent publication from the Association of Medical Research Charities – show, embedding research throughout the NHS is essential for helping to tackle ill health and improve the quality of patient care. The College therefore welcomes the establishment of the Health Research Authority and supports the move to place it on a statutory footing. We believe it will help to streamline research bureaucracy and we support its purpose of protecting and promoting the interests of participants, potential participants and the general public in health and social care research. We also welcome the Government's decision to give HEE a duty to promote research on matters relevant to the health service.

Reducing research bureaucracy is important for helping to foster a culture that encourages medical professionals to take part in research, and **we would welcome clarification from the Minister about how the Government is working to achieve this**.

The College has previously shared its views with Peers on how to improve medical innovation in the NHS and our briefing can be found **online here**.

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