

Review of November 2010 risk register

May 2012

Transition Programme Risks
You may re-use the text of this document (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/
© Crown copyright 2012
First published [May 2012] Published to DH website, in electronic PDF format only.
www.dh.gov.uk/publications

Review of November 2010 Risk Register

Contents

Executive summary5
How best to manage the parliamentary passage of the Bill and the potential impact of Royal Assent being delayed on the transition in the NHS6
How to coordinate planning, so that changes happen in a coordinated fashion whilst maintaining financial control8
How to ensure the NHS takes appropriate steps, during organisational change, to maintain and improve quality10
How to ensure that lines of accountability are clear in the new system, that different bodies work together effectively, and that we avoid replicating the current system12
How to minimise disruption for staff and maintain morale during transition15
How best to ensure financial control during transition and to minimise costs of moving to a new system and to ensure that the new system delivers future efficiencies17
How to ensure that future commissioning plans are robust and to maximise the capability of the future NHS Commissioning Board19
How stakeholders should be engaged in developing and implementing the reforms21
How to properly resource the teams responsible for implementing the changes23

Executive summary

The purpose of this document is to describe and explain the areas of risk contained in the Transition Risk Register of November 2010. Its release follows a review of the material contained in the Risk Register, carried out by the Department in April 2012, following the passage of the Health and Social Care Act.

There are nine areas in total, covering subjects such as legislation, communications, people transition, finance and the management of the organisational changes. These areas were described by Earl Howe in the debate on the risk register release in the House of Lords on 28 November 2011 and they cover all the areas in the original register.

On each page, underneath the description of the risk area, there is an explanatory note setting out the background to the risk and the related risks contained in the original register. While the wording of the individual risks is not included, the explanatory note refers to the range of risks in each area.

For each risk area, the document includes a column with the detail on the mitigating actions undertaken by the Department of Health since November 2010. These would have been sketched out in broad terms in the original document but are described here fully along with the outcomes achieved by taking this mitigating approach.

The second column for each risk area sets out the mitigating actions that are still underway or planned in the current financial year, before the Transition Programme is completed.

In the document, hyperlinks provide access to published information and other sources of material relating to the risk area and its mitigation.

How best to manage the parliamentary passage of the Bill and the potential impact of Royal Assent being delayed on the transition in the NHS

The aim was to ensure the Bill had sufficient Parliamentary time to enable Royal Assent in the current session while allowing for robust scrutiny by both Houses of Parliament. Linked objectives were to ensure that all amendments made strengthened the Bill and were aligned with the aims of the reforms and that there was clarity over the implementation timetable so that the NHS could plan effectively for the transition.

Mitigating action and outcomes since November 2010

The Bill was introduced to the House of Commons on 27 January 2011 and received Royal Assent on 27 March 2012.

- During the passage of the Bill, the Government responded to concerns raised by stakeholders about the pace of change by allowing more time for external engagement; by amending the timetable for implementation; and by adopting the <u>core</u> <u>recommendations of the NHS Future Forum</u>. In its <u>response</u>, in June 2011, the Government published a revised implementation timetable to give the NHS clarity to plan effectively for the transition.
- Ministers and officials carefully assessed the policy and cost implications of all proposed amendments and their impact on the overall coherence of the reforms. In light of this analysis, the Government agreed amendments to the Bill where it was confident that these improve and strengthen the reforms, for example by strengthening clinical leadership and patient involvement and by putting beyond doubt the continuing accountability of the Secretary of State for the NHS.
- The Government remains confident that the reforms will deliver £4.5 billion savings from reduced administrative spending over the

Further mitigating action planned and underway

 None required. The Department is now preparing the secondary legislation needed to supplement the provisions in what is now the Health and Social Care Act 2012.

Transition Programme Risks	
course of this Parliament (by 2014-15) and £1.5 billion per year after 2015, as set out in the revised impact assessment published in September 2011	

Risk Area 2	How to coordinate planning, so that changes happ	pen in a coordinated fashion whilst maintaining financial control
	The aim was to make sure that different parts of the h coordinated way, within the financial allocations and co	ealth and care system take forward the reforms in a planned and constraints
Mitigating act	ion and outcomes since November 2010	Further mitigating action planned and underway
carefully-planexisting power Government with the aim benefits of the framework exand Social C The Government Special Healmone Forum for impromeeting support The Department co-ordinate in aligned. Government and NHS Chof decisions for the Government of Retaining Retaining support of the Government of	e Bill's Second Reading, the Department put in place a need transition programme. This was carried out under ters under the NHS Act 2006, which enables the to undertake a limited amount of preparatory work of ensuring a smooth and effective transition. The full the reforms can only be realised through the statutory established now that the Bill has become the Health faire Act 2012. The stablished the NHS Commissioning Board as a sth Authority on 31 October 2011, following the NHS on, in order to ensure focused leadership: Toving quality and safety; the financial challenge during the transition; and ing emerging CCGs in their development. The ent established an Integrated Programme Office to emplementation and ensure that plans are robust and ernance groups chaired by the Permanent Secretary ief Executive have been established to ensure scrutiny and plans. The ent accepted the NHS Future Forum's action to phase the timetable for transition including: The strategic Health Authorities as statutory bodies until 13, but forming then into clusters for management	 The Integrated Programme Office will continue to oversee planning and coordination of transition plans. New bodies are being set up with sufficient time to plan. Subject to consultation, the NHS Trust Development Authority and Health Education England will be established as Special Health Authorities in June 2012. They will not take on the bulk of their responsibilities until April 2013 allowing them sufficient time to undertake the necessary preparatory work. Mitigating actions for maintaining financial control are set out under risk area 6.

purposes;

- a phased introduction of Clinical Commissioning Groups, with groups established by April 2013 but only authorised to take on responsibilities when ready;
- Monitor to retain transitional intervention powers over NHS foundation trusts to 2016 to maintain high governance standards;
- o a phased introduction of choice of any qualified provider;
- a careful transition for education and training to avoid instability;
- establishing Healthwatch England from October 2012, with local Healthwatch operating from April 2013.

Risk Area 3	How to ensure the NHS takes appropriate steps, o	during organisational change, to maintain and improve quality
-	The aim was to ensure that the system maintains a c	lear focus on people's health and care throughout transition.
Mitigating actio	n and outcomes since November 2010	Further mitigating action planned and underway
transition: Hospital MRSA is compare infections 2010/11. The number alm 2010 to Note within 18 92.6% of waiting learned the tomillion in 2010). The A&E 2011/12 a 2011/12. Non-elect decrease Access to	acquired infections are at their lowest levels ever: a quarter lower (24%) at the end of 2011/12 ed to 2010/11 and the number of C. Difficile is is 17% lower across 2011/12 compared to ber of breaches of mixed sex accommodation have nost entirely eradicated (96% reduction December March 2012). imes remain low, with the vast majority of patients eatment within 18 weeks of referral: 91.2% of patients and 97.1% of outpatients started treatment weeks of referral. At the end of February 2012, a patients who have yet to start treatment had been ess than 18 weeks, meeting the new standard early otal waiting list is now lower than in May 2010 (2.38 February 2012 compared with 2.57 million in May a standard has continued to be met in each quarter of and cancer wait standards were all met in Q3 of each tive admissions, in the year to February 2012, have add by 1.2% compared with the same period last year. The NHS dentistry has grown by over half a million last year and 991,000 more patients have been	 PCT clusters will remain in place until 2013 to maintain capacity and capability during the transition. The National Quality Board (NQB) is continuing to undertake work on quality in the new system. Phase Two of the NQB review is focusing on how quality will be maintained and improved in the new healthcare system architecture. This includes work on a handover process for organisations to ensure a robust handover of information on quality. This handover and assurance process will continue during 2012/13 and to support this a Managing Director for Quality During Transition was appointed. The NQB will provide ongoing advice to Ministers. The new EPRR system is being planned and tested during 2012 and early 2013 and will change over from the current system to the new planned system on 1 April 2013.

seen since May 2010.

- The latest performance information from the NHS is published in The Quarter
- The focus on NHS quality and performance during transition is evident from the direction set in the Operating Framework for the NHS. The <u>Operating Framework for 2012/13</u> was published on 24 November 2011.
- The risk of organisational change is acknowledged. The National Quality Board has therefore been asked to advise on how to enhance quality and safety during the transition and report on any additional measures needed to strengthen the system's ability to identify and respond to serious quality failings. In March 2011, the NQB published 'Maintaining and improving quality during the transition', which provided advice on practical steps for maintaining quality, including setting out a clear process for delivering a robust handover for quality between current and new NHS bodies which have been acted upon.
- PCT capacity was consolidated into "clusters" in order to ensure capacity and capability are maintained effectively during transition. This, along with SHA clusters, particularly helped strengthen Emergency Preparedness Resilience and Response (EPRR) arrangements and reduced the potential impact of skills shortages.

How to ensure that lines of accountability are clear in the new system, that different bodies work together effectively, and that we avoid replicating the current system

The aim was to establish roles for the new organisations that would enable them to work effectively together to support the delivery of services. A linked objective is to ensure the new bodies are clear about the changes required and that they have robust governance arrangements to ensure services to patients are maintained effectively.

Mitigating action and outcomes since November 2010

- The Act increases transparency and strengthens accountability of the NHS - shifting it from a system based to a large extent on the discretionary powers of Ministers to one where the roles and responsibilities of each body are set out clearly in legislation. The Secretary of State retains ultimate accountability for the health service, setting the strategic direction for the system and holding national organisations to account for performance, and has extensive powers of intervention should they fail to meet their objectives. The duties of cooperation across arms length bodies help to ensure that the new system will be characterised by strong autonomous bodies working together in the interests of the health service.
- In response to concerns from Peers we made amendments to the Bill to clarify lines of accountability:
 - We made clear that the Secretary of State will retain ministerial accountability to Parliament for the provision of the health service;
 - We also amended the duties of the Secretary of State and the NHS Commissioning Board, to make clear that in exercising this duty, the interests of the health service must always take priority; and
 - We made clear that Clinical Commissioning Groups (CCGs)

Further mitigating action planned and underway

- The Department will agree Framework Agreements with the NHS Commissioning Board, Monitor and all other arms-length bodies. These set out the roles, responsibilities and accountabilities for the Department and the ALB, and will reinforce the need for effective partnership working while avoiding duplication of roles (the <u>Framework Agreement for the NHS Commissioning Board Special Health Authority</u> was published in January 2012).
- Formal governance mechanisms will be established for the new bodies in the system to ensure they are working together with common purpose and clarity about their roles. Senior appointments will be made over the coming months, including:
 - Chair and Chief Executive roles in Health Education England
 - Remaining NHS Commissioning Board senior leadership posts
 - Appointment of the Chair of Public Health England
 - Senior appointments to Clinical Commissioning Groups
- The Secretary of State's Mandate to the Commissioning Board will be a multi-year document, published before the start of each financial year that sets: objectives, which the Board must seek to

must exercise their functions consistently with: the duties of the Secretary of State and the NHS Commissioning Board to promote the comprehensive health service, and the Government's Mandate to the Board.

- An <u>Accounting Officer system statement</u> was published on 23
 January 2012 providing further information on the role of the Accounting Officer in relation to the NHS, public health and adult social care after April 2013
- The Department has put in place a carefully-managed transition programme, including supporting CCG pathfinders, Local Authority early adopters and local Healthwatch pathfinders to prepare the groundwork for full implementation.
- The Government established the NHS Commissioning Board as a Special Health Authority to work towards the establishment and operation of the NHS Commissioning Board, helping to ensure that the new commissioning arrangements are able to operate effectively from the start.
- The Board Authority has also published a series of resources for emerging clinical commissioning groups, including guidance, toolkits, and other information around authorisation, establishment, governance and commissioning support.
- The NHS Commissioning Board Authority published <u>Clinical</u> <u>Commissioning Group authorisation: draft guide for applicants</u> on 13th April 2012. This is designed to designed to help emerging CCGs develop clear plans to progress through the authorisation process and become an authorised CCG. It provides a detailed description of the criteria, thresholds and evidence for authorisation and sets out the timetable for applications in four waves, including setting out the possible outcomes: fully authorised; authorised with conditions; and established but not

- achieve; any supporting requirements, which the Board must comply with; the Board's budget. There will be a formal public consultation on the Mandate later this year.
- Over the course of 2012/13 emerging CCGs are preparing for establishment and taking on their full commissioning responsibilities. They are considering when they will submit an application to the NHS Commissioning Board to be authorised. 35 emerging CCGs have already agreed to submit applications for the first wave in July 2012. The subsequent three waves will run from September, October and November 2012.

authorised (shadow CCG). 35 emerging CCGs have already agreed to submit applications for the first wave in July 2012

- In relation to the new Public Health System, <u>Healthy Lives</u>, <u>Healthy People</u> set out the vision for the new public health system; and <u>Healthy lives</u>, <u>Healthy People</u>: <u>update and way forward</u> set out the Government's policy responses to the consultation. A series of factsheets were published in December 2011 and January 2012. <u>Public Health in Local Government</u> and <u>Public Health England's Operating Model</u> completed the overall policy design and provided clarity for the transition. <u>Improving outcomes and supporting transparency</u>: a public health outcomes framework for England, set out the high level outcomes.
- Major appointments have already been made to key roles in the new system:

 - Dr David Bennett was appointed as Chair of Monitor in March 2011, and continues to act as the organisation's Interim Chief Executive.
 - David Flory and Sir Peter Carr have been confirmed as Chief Executive and Chair, respectively, of the NHS Trust Development Authority
 - Duncan Selbie was confirmed in April 2012 as the Chief Executive Designate of Public Health England.

How to minimise disruption for staff and maintain morale during transition	
nated way, taking account of individual needs, so that workforce uring transition.	
Further mitigating action planned and underway	
 SHA and PCT clusters will remain in place and clearly accountable for day-to-day delivery up to 31 March 2013 and will oversee the people transition for their staff. The Department plans to develop a clear resourcing plan setting out when such moves are intended to take place so that staff have clarity. All managers will maintain regular contact with staff as this develops. The Department will continue to work with the trades union to develop HR policies which are demonstrably fair to staff. The Department is developing HR Transition Guidance and a toolkit to provide consistency to the approach for people transition. An integrated communications plan for workforce changes across system partners is being developed and reviewed weekly. The plan ensures consistency of information to staff from both sender and receiver organisations supports specific areas of need and facilitates an open and transparent process. 	
1	

Transition	Programme	Risks
------------	-----------	-------

Senior leaders across the health and care system sent letters to all staff affected by transition on 31 January 2012. This was part of the on-going commitment by the Department to provide as much information as possible about transition to those working across the system as the process moves forward. The letters outlined, as far as possible, the expected destination for functions in the future system; the timescale that the Department is working towards on transfers; and options for staff to consider going forward. After Royal Assent, David Nicholson set out the implications and next steps for staff and organisations in a special edition of The Month Similar communications were sent to non-NHS staff.	

How best to ensure financial control during transition and to minimise the costs of moving to a new system and to ensure that the new system delivers future efficiencies

The aim was to ensure that there is tight control over budgets and expenditure during transition and that all options for the new system would be rigorously tested at each stage of the design and implementation processes in order that decisions could take account of the potential costs. Linked to this is the objective of ensuring that adequate systems are in place to alert those delivering the changes to financial issues that may arise while continuing to focus on necessary efficiency savings.

Mitigating action and outcomes since November 2010

The Government has continued to maintain financial control during transition. At Quarter 3 (Q3) of 2011/12, Strategic Health Authorities (SHAs) and Primary Care Trusts (PCTs) were forecasting a combined surplus of nearly £1.5bn. NHS trusts (excluding foundation trusts) are forecasting an overall surplus of £30m.

- Delivery against the £20bn Quality Innovation Productivity and Prevention (QIPP) challenge continues. £1.4 billion of QIPP savings were delivered during Q3. This gives a total a year to date QIPP savings figure of £3.9 billion. Total NHS efficiency savings since 2010/11 amount to £8.26bn. At Quarter 3 PCTs are forecasting annual QIPP savings of £5.8 billion, which continue to be in line with the overall delivery of QIPP plans.
- Transition plans have been costed and affordability tested, including high level allocations for the major components of the system, and signed off by the Executive Board.
- The Government remains confident that the reforms will deliver £4.5 billion savings from the reduction in administrative spending over the course of this Parliament (by 2014-15) and £1.5 billion per

Further mitigating action planned and underway

- Continuing to focus on the QIPP end-state vision will ensure that the NHS builds a resilient and sustainable health system for the future. Currently, local health systems are refining their QIPP programmes and associated end states during the planning round for 2012/13. There are an emerging number of examples where transformational programmes have begun implementation with positive progress, both in terms of improved quality to the patient and provision of care at a lower cost.
- The Department is continuing to monitor expenditure across transition workstreams, and quarterly returns are submitted to Cabinet Office.
- Costs and staff numbers are being monitored on an ongoing basis and the Department and will actively take action to contain costs in the event that they start to drift upwards. The Finance and HR workstrands are continuing to work together to manage the overall costs of redundancies.

year after 2015, as set out in the revised Impact Assessment published in September 2011.

- The Department has undertaken extensive analytical work to model costs under different scenarios – especially important for redundancy costs that are the largest cost driver.
- The Transition Costs Group (Special Allocations Group) has overseen costs and made allocations, and an HR workstrand has been set up to manage transition of staff whilst minimising staff losses.
- All re-organisation plans are required to take account of efficiency savings requirements. Shadow budgets have been set for some organisations prior to formal establishment, so that they can prepare for formal establishment.
- Clustering of SHAs and PCTs has also increased resilience and concentrated expertise so that they are better equipped to manage these changes.

How to ensure that future commissioning plans are robust and to maximise the capability of the future NHS Commissioning Board

The aim was to ensure there was clarity about the aims of the NHS Commissioning Board and that it has the capacity and capability to fulfil its functions. Linked to this was the objective of ensuring that clinical commissioning groups are only established when ready to take on their commissioning functions, and that any contractual obligations to the new commissioning arrangements are addressed.

Mitigating action and outcomes since November 2010

The NHS Commissioning Board Authority is already providing clear leadership and capacity for the development of the new commissioning system, including supporting Clinical Commissioning Groups (CCGs) in their development and ensuring that commissioning support services are developed to aid CCGs in delivering any element of their functions.

- A national pathfinder learning network has been in place since early 2011 to provide support to emerging clinical commissioning groups in developing and implementing their new commissioning roles. Pathfinder CCGs came forward rapidly: 51 in December 2010, 73 in January 2011, 41 in March 2011, 43 in April 2011, 35 in July 2011 and 13 in October 2011.
- In the 2011/12 Operating Framework we committed to delegating commissioning budgets to pathfinders as formal sub committees of PCT Boards. To date, the total estimated commissioning funds for delegation are £63.1bn. Of this, £40.4bn has been applied for by emerging CCGs in 2011-12 (64%). Of the funds applied for, £37.3bn has been delegated (92% of the funds applied for).
- Emerging clinical commissioning groups are increasingly taking on leading roles in commissioning through delegated responsibility

Further mitigating action planned and underway

- The NHS Commissioning Board Authority is finalising a national development programme which will build on this and set out the further steps that emerging clinical commissioning groups can take to continue their development journey. It will, for example, signpost identified learning and development opportunities across three areas: development of individual leaders; organisational development and development for leading transformational change. SHA and PCT clusters are also proactively supporting the development of emerging clinical commissioning groups, helping them to become the best they possibly can.
- The NHS Commissioning Board Authority is making preparations for the NHS Commissioning Board's direct commissioning from 1 April 2013 of, for example, primary care services, specialised services and a range of public health services, as well as its responsibilities in relation to emergency planning and response, patient safety and quality assurance of NHS services.
- Over the course of 2012/13 emerging CCGs are preparing for establishment and taking on their full commissioning responsibilities. They are considering when they will submit an application to the NHS Commissioning Board to be authorised. 35 emerging CCGs have already agreed to submit applications

from their PCTs.

- The Board Authority has also published a series of resources for emerging clinical commissioning groups, including guidance, toolkits, and other information around authorisation, establishment, governance and commissioning support.
- The NHS Commissioning Board Authority published <u>Clinical</u> <u>Commissioning Group authorisation: draft guide for applicants</u> on 13th April 2012. This is designed to designed to help emerging CCGs develop clear plans to progress through the authorisation process and become an authorised CCG. It provides a detailed description of the criteria, thresholds and evidence for authorisation and sets out the timetable for applications in four waves, including setting out the possible outcomes: fully authorised; authorised with conditions; and established but not authorised (shadow CCG).

for the first wave in July 2012. The subsequent three waves will run from September, October and November 2012.

Risk Area 8	How stakeholders should be engaged in developi	ng and implementing the reforms
	The aim was to engage stakeholders in the developm robust as possible and that the timetable for impleme	nent and implementation of the reforms, ensuring the reforms were as ntation was met.
Mitigating act	tion and outcomes since November 2010	Further mitigating action planned and underway
The Government steps to ensure have held regroups, inclusion healthcare properties. The NHS Furnindependent in the passage of eight week of over 200 limeetings with events organizand nine region by Local Involve. Amendments stakeholder of putting Secretary.	ment has engaged stakeholders throughout policy than the Parliamentary passage of the Bill, taking the engagement is thorough. Ministers and officials gular meetings with a broad range of stakeholder adding the medical Royal Colleges, groups representing rofessionals, and patients' organisations. It the Forum was set up in April 2011 as an advisory panel to drive engagement during the pause ge of the Health and Social Care Bill. Over the course ks, the Forum heard from over 6,700 people in a series istening events and meetings. These included: the 250 national stakeholder organisations; regional hised by Strategic Health Authorities; and two national ional patient and public involvement events organised by the empty of State for the NHS; mening clinical involvement in commissioning;	 Stakeholder engagement throughout implementation of the reforms is planned, including: developing the mandate to the NHS Commissioning Board, on which there will be a formal public consultation; building on the positive work of the NHS Future Forum on integration to develop the approach on this.
placing tackle hreformu interest	new duties on the NHS to promote integration and to lealth inequalities; lating Monitor's core duty to protect and promote the s of patients and to ensure competition is only used t benefits patients;	

Transition Programme Risks	
 strengthening health and wellbeing boards; and 	
o introducing a more phased timetable for implementation.	

Risk Area 9	How to properly resource the teams responsible for implementing the changes	
	The aim was to ensure policy and transition teams were appropriately resourced so that they could plan and prepare effectively for the introduction and passage of the Bill and for the implementation of the reforms.	
Mitigating action and outcomes since November 2010		Further mitigating action planned and underway
transition and the right skills various action	ent gave priority to ensuring that the teams to support implementation had the right number of staff, with s. This allowed the Department to ensure that the his to support effective transition and implementation that an early stage.	The Department will keep resourcing of teams involved in implementing the reforms under review to ensure that the transition continues to be managed effectively.