

# Reportage

31 July 2008



## Introduction

The NHS European Office, which is part of the NHS Confederation and funded by the Strategic Health Authorities, was established in September to represent NHS organisations in England to EU decision makers, through monitoring and engaging with EU policy and legislative developments which have an impact on the NHS as a provider and commissioner of services, as an employer and as a business.

## EU policy and legislation – monitoring and engagement

The European Office has informed NHS organisations of key EU developments which have taken place in the last few months and has started engaging with the European institutions in view of influencing them in the interest of the NHS. The main activities carried out are outlined below:

### Cross - border healthcare

EU proposals for a Directive on cross-border healthcare were released on 2 July. These proposals have been produced in response to a number of European Court cases in this area and aim to clarify the rights of patients to travel to other member states of the EU to receive medical treatment and the responsibilities of health systems to facilitate and fund this.

From an initial examination of the proposal we can see that a few helpful changes have been made compared to previous versions of the draft text we had seen. This includes new text clarifying that healthcare systems may impose on patients seeking healthcare abroad the same conditions, criteria of eligibility and regulatory and administrative formalities as would apply to patients seeking treatment domestically. The text, however, still raises some concerns in terms of maintaining the NHS' ability to plan and manage services, increasing bureaucratic burdens on NHS organisations, and the risk of increasing health inequalities that will have to be fully assessed.

The NHS European Office has informed NHS organisations of the proposals and has started consulting them on their potential impact in view of shaping an NHS position. The proposals will be subject to a lengthy process of negotiations before they could become law. The NHS European Office will follow these negotiations and work closely with EU decision-makers to ensure that the likely impacts on the NHS receive proper consideration.

### Working time and temporary workers

After a number of years of political deadlock, EU employment ministers reached an agreement on EU proposals to revise the current working time Directive and on proposals for a temporary agency workers Directive.

Under the agreement, the opt-out from the weekly limit on working hours is retained and new provisions relating to on-call time are introduced in the working time Directive. The agreed provisions on on-call and compensatory rest are particularly welcome as could provide greater flexibility for the NHS. In the agency workers Directive, temporary workers now receive equal rights after 12-week qualifying period, reflecting the recent agreement between the CBI and TUC.

The agreement will not mean any immediate changes to UK legislation, as the texts would first need to be agreed by the European Parliament, and then transposed at national level. Working with NHS Employers, the NHS European Office has informed NHS organisations of these developments. The Office will follow the discussions in the European Parliament over the next few months and inform Members of the European Parliament of the likely impact on the NHS of the agreed provisions.

### Climate change

The NHS European Office has pressed for a number of changes to be introduced to EU proposals for the revision of the European Emissions Trading Scheme (ETS). There are currently over 70 NHS hospitals subject to the ETS and the proposed revision could lead to significant administrative and cost implications for these hospitals.

The EU Office has consulted all trusts involved. The line which emerged is that whilst NHS trusts are fully committed to the climate change agenda the ETS is not the most cost effective tool to reduce energy use in hospitals and an exclusion from the legislation should be sought for as many NHS hospitals as possible. The NHS European Office has informed EU decision-makers of the adverse impact of the proposals on the hospital sector and made suggestions for possible changes to the text to address this.

### Public procurement

EU proposals requiring public authorities to take account of mandatory environmental criteria when purchasing or leasing vehicles have recently been put forward. The proposals could have a considerable impact on NHS procurement policies and may involve substantial additional upfront costs to trusts (or the operators under contract to them) for the purchase or leasing of vehicles.

Further to consultations with PASA, the NHS procurement hubs and the Ambulance Service Network, the NHS European Office has made the case with Members of the European Parliament for a number of changes to be introduced to the proposals. This includes seeking exclusion for vehicles providing emergency services such as ambulances and organ transplant or blood supply vehicles from the scope of the law. All our proposed changes have been agreed by the European Parliament at Committee stage.

### **Patient safety**

The NHS European Office has responded to the European Commission consultation on patient safety, which will inform the development of proposals in this area later this year. The response confirmed the NHS' commitment to patient safety and highlighted the extensive work going on in the UK, including the activities of the National Patient Safety Agency and the NHS Institute for Innovation and Improvement. It identified leadership and high-level commitment, education and training for staff and better data and intelligence as key elements for improving patient safety, and noted that local ownership is needed if a patient safety culture is to be embedded throughout the NHS. Finally, it suggested European actions should concentrate on issues such as facilitating exchange of best practices and promoting research in areas where evidence is lacking.

### **Energy efficiency**

Proposals for the review of the EU Directive on energy performance in buildings will be released shortly with the possibility that some of its requirements be strengthened and its scope extended. NHS trusts are subject to this law, which aims to improve energy efficiency in buildings by setting minimum standards for energy efficiency and requiring periodic inspections of boilers and air conditioning systems.

The revision of the Directive could have a considerable impact on the NHS as a major energy consumer with large building infrastructures. The NHS European Office has consulted NHS Estates and facility managers on their experience implementing this law and their views on the forthcoming proposals. Their comments have formed the basis of the NHS European Office's response to the consultation launched by the European Commission to feed into the review.

The key messages in our response are that we do not want to see the scope of the law extended at this stage and that minimum standards for energy efficiency should continue to be set at national level (and not at EU level) to take into account local climate conditions. We will continue to engage with developments in this area.

### **Medical devices**

The NHS European Office has responded to the European Commission's consultation on medical devices. The key message in our response is that whilst we welcome the European Commission proposal to merge the existing different EU legal texts on medical devices into one single document we are concerned that changes should not be made to the medical devices regulatory regime unless there is evidence to support these changes. We are of the view that the consultation document did not provide sufficient evidence to support several of the proposals put forward. For example, it suggests giving the European Medicines Agency (EMA) a role in the regulation of medical devices, even though it has no expertise in this area.

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