

7 March 2013

Dear colleagues,

I wanted to provide you with an update on the regulations relating to section 75 of the Health and Social Care Act 2012, which deal with procurement, patient choice and competition. As you will know, a number of concerns have been expressed about the precise wording of these regulations. As a result, I announced in the House on Tuesday that we have undertaken to amend them to ensure they cannot be open to any misinterpretation, and that they faithfully implement the commitments given by Earl Howe and Andrew Lansley during the passage of the legislation.

We have always said that it should be commissioners, not Monitor or Ministers, who decide when and how competition should be used to serve patients' interests. It is also important to note that we are continuing the approach we inherited from the last Government, with the principles of integration and cooperation reinforced, so it is sheer opportunism for the Opposition to claim otherwise.

Concerns have been raised that Monitor would use the regulations to force commissioners to tender competitively. The regulations will make clear that this is not the case. Concerns have also been raised that competition would be allowed to trump integration and co-operation. Competition, as the Government made clear during the passage of the Bill, can only be a means to improve services for patients—not an end in itself. What is important is what is in patients' best interests. Integration is key to improving services for patients, and commissioners will be under a duty to use this approach. We will amend the regulations to make that point absolutely clear.

People have suggested that these regulations will result in “enforced privatisation.” This has never been our intention. What they would actually do, in line with the principles adopted by the previous government, is ensure that it is doctors and nurses who decide on the best providers to deliver services to their patients, taking decisions on when and how to use competition so they can improve services for patients, with appropriate safeguards to protect patients from conflicts of interest, discrimination and anticompetitive conduct. There will be no privatisation of the NHS under this Government.

We will be laying the revised regulations as soon as possible.

Yours ever,

Norman Lamb