

NHS European Office

Annual Report 2008/09

1. Introduction

The NHS European Office was established at the end of 2007 to represent NHS organisations in England to EU decision-makers. The Office is funded by the Strategic Health Authorities and is part of the NHS Confederation. The work of the Office includes:

- monitoring EU policy and legislative developments which are important to the NHS
- informing NHS organisations of EU affairs
- influencing EU proposals in the interest of the NHS
- promoting NHS expertise to EU decision-makers
- advising NHS organisations of EU funding opportunities.

This report presents the main activities carried out by the NHS European Office in the 2008/09 financial year. It is structured around the following main areas of work:

- EU policy and legislation: monitoring and engagement
- Communication and NHS engagement
- Raising the Office profile to EU decision-makers
- EU funding programmes

2. EU policy and legislation: monitoring and engagement

This section provides an overview of the work carried out by the NHS European Office to engage with EU policy and legislation and, in particular, to influence them in the interest of the NHS.

Cross-border healthcare

The NHS European Office has undertaken a broad programme of activity in relation to the EU proposal for a directive on patients' rights in cross-border healthcare. These proposals aim to clarify the rights of patients to travel to other European countries to receive medical treatment and the responsibilities of health systems to facilitate and fund this.

The Office carried out a major consultation exercise to identify potential implications for NHS organisations of the proposed directive. This included the publication and dissemination of a consultation document and the organisation of four consultation meetings with NHS representatives from across England. The issue was also raised and discussed at a range of other meetings, conferences and events, both within the NHS and with external stakeholders.

We briefed EU decision-makers on NHS views and proposed a number of changes to the text, notably working closely with Members of the European Parliament.

The key issues which emerged from our consultation and that we have advanced are:

- ensuring that NHS decision-making processes to determine what treatment a patient can receive are allowed to continue in the future
- reinforcing provisions for prior authorisation systems
- ensuring that providers have the right to refuse to accept an incoming patient for planned treatment if they deem it clinically inappropriate to treat that patient or in case of limited capacity
- reducing possible new administrative burdens on NHS organisations resulting from the new rules
- ensuring that the regulation of quality and safety of healthcare remains a matter for the appropriate national authorities.

The EU legislative process is ongoing but to date our briefings have been well received with a number of amendments tabled in areas of potential concern.

We also contributed written and oral evidence to the House of Lords' inquiry on the proposals through the NHS Confederation, and organised for the Welsh NHS Confederation to give evidence to the Welsh Assembly's inquiry.

In parallel to these activities, the Office issued guidance to inform commissioners and providers on the current rules on cross-border healthcare and, on an informal basis, responded to individual requests from NHS organisations for guidance on existing rights of patients to receive healthcare in other European countries. In addition, the Office has worked closely with the Department of Health on promoting awareness and the appropriate use of the European Health Insurance Card (EHIC) in NHS organisations.

Patient Safety and HCAIs

The European Office fed in NHS views to the EU proposals on patient safety and HCAIs during their drafting to ensure better consistency with ongoing UK actions. This was achieved through close working with the National Patient Safety Agency and the European Hospital and Healthcare Federation, which were both involved in the expert group advising the European Commission in this area. As a result, the EU Communication and Recommendation on patient safety and HCAIs, released in December 2008, are more in line with NHS views compared to earlier drafts of the texts, in particular in relation to ensuring the Recommendation was not too prescriptive.

The proposals recommend actions to be taken at a range of levels to improve patient safety and help tackle HCAIs. They are non-binding but there will be political pressure to implement them as well as monitoring and reporting on progress in the future. Our engagement with these proposals will continue over the coming months when they are considered by the Council of Ministers and the European Parliament.

European Emissions Trading Scheme

The Office made a significant effort to influence the revision of the European Emissions Trading Scheme (ETS) in the interest of the NHS. A final agreement on the new law was reached by EU decision-makers in December 2008, on the basis of which national governments can opt hospitals out of the scheme from 2013, as long as they implement alternative equivalent carbon emissions initiatives.

There are currently around 70 NHS hospitals across the UK subject to the ETS and the proposed revision would have meant significant new cost and administrative implications for

the concerned trusts. The Office consulted all trusts subject to the scheme and shaped its lobbying position on the basis of views which emerged from concerned NHS trusts.

The opt out is the result of intensive work by the NHS European Office to reflect the views of the NHS trusts currently subject to the scheme that the ETS is not an appropriate tool for them as it does not take into account the need for significant standby capacity in hospitals, it has disproportionate administrative and compliance costs for the NHS vis-à-vis large industrial emitters, and is not a cost effective tool for reducing emissions in the NHS. National governments will now have until September 2011 to publish a list of sites that will be covered by the EU law, and it will be up to the Government to implement the new rules in a way which takes account of NHS concerns.

In relation to climate change, we also contributed to an EU stakeholder forum on climate change adaptation, making the case for more consideration to be given to the needs of the healthcare sector. This was followed by a letter to the responsible European Commissioner including recommendations for EU actions in this area.

Organ donation and transplantation

Alongside NHS Blood and Transplant and the European Hospital and Healthcare Federation, the Office fed into the process of drafting EU legal proposals on organ donation and transplantation. This engagement helped to influence the European Commission's decision to propose a framework approach, with flexibility for member states to implement as appropriate to their systems, rather than prescribing at EU level highly detailed quality and safety standards for organs for transplant.

The Office is closely monitoring discussions in the European Parliament and the Council of Ministers, and will engage as necessary during the legislative process with a view to ensuring the proposals complement existing UK arrangements.

Energy performance of buildings

The European Commission issued proposals for the revision of the current Energy Performance of Buildings Directive at the end of 2008. Under the current rules NHS trusts are required to comply with minimum standards for energy efficiency of new buildings and for major renovation of buildings, as well as to equip buildings over a certain size with "energy certificates" and to display them to raise public awareness about energy efficiency.

The revision aims to extend the scope of the law (in particular to smaller buildings) and may have potentially significant implications for the NHS as a major energy consumer with a large infrastructure. In light of this, we consulted all NHS organisations on their experience with the current rules and their views on the revision. The following issues have emerged as key points to be taken forward at EU level:

- The extension of the energy certificates requirements to NHS buildings over 250 m² is challenging and may have large costs implications. To ease the burden we will make the case for retaining current rules requiring energy display certificates only where a building is frequently visited by the public and therefore of most value in terms of raising public awareness. We will also push for "site-based" certificates to be allowed for those trusts which have a collection of buildings in proximity sharing the same energy system.

- The timescale for compliance needs to be more realistic so that there is time for proper financial planning and for enough independent and accredited energy assessors to be trained.
- More specific requirements for transparency and consultation are essential if the public sector is to successfully assume a leadership role.

We have briefed Members of the European Parliament and the CLG, the leading government department, on these issues and proposed a number of changes to the text of the draft directive to address them. We have worked closely with the LGA, as many of our concerns are also shared by local government, and a joint NHS-LGA contribution highlighting public sector concerns was taken on board in an impact assessment commissioned by the CLG.

Health professionals

The Office responded to the European Commission's consultation on the European Workforce for Health in March. The consultation launched a wide-ranging debate on common challenges for the health workforce across Europe in view of identifying possible areas where further action at EU level could add value.

Our response highlights that the NHS has undertaken major and wide-ranging efforts in recent years to become a better place to work and to provide rewarding careers for healthcare professionals whilst delivering the best possible healthcare to patients. It also recognises that we face many challenges which are common to other EU healthcare systems and that benefits can be had through sharing of learning and best practice throughout the EU.

It notes that healthcare workforce planning must be carried in the context of each member state's healthcare system, but welcomes EU support for member states' efforts to address common challenges. In particular, it recommends the European Commission to bring together information on the competences and/or experiences required for different roles and qualifications in different member states to facilitate employers' task to assess competences of healthcare professionals coming from other EU countries.

Public procurement

An EU law, which aims to drive the market for clean energy-efficient vehicles, was agreed at the end of 2008. The directive will require the NHS to consider criteria for environmental performance when purchasing vehicles, such as lifetime environmental and energy impacts, alongside initial purchase price. It should be noted, however, that despite this requirement NHS organisations will continue to be free to buy the vehicles of their choice.

Following consultations with NHS PASA, the NHS procurement hubs, the Ambulance Service Network and individual NHS trusts, the Office contributed to the shaping of these rules ensuring that no mandatory targets for clean vehicles were introduced. We also successfully made the case for reduced administrative burdens, the need for financial incentives for green public procurement, and better servicing and refuelling infrastructure for new vehicle technologies.

The EU law will now have to be transposed into national legislation by 2010 and our Office will advise NHS trusts on preparing for implementation of the new rules.

To assist the NHS in “greening” its public procurement policies, the NHS European Office has circulated EU guidance in the form of a “Green Public Procurement Toolkit” to all NHS trusts.

Information to patients on prescription-only medicines

The Office responded to an EU consultation on information from the pharmaceutical industry to patients and the public on prescription-only medicines with a view to shaping EU legal proposals in this area. We liaised with the MHRA and with UK and Brussels-based interest groups to exchange views and collaborate during the drafting phase.

The proposed legislation, published by the European Commission in December, is broadly in line with NHS views and would allow existing UK practices in this area that are already benefiting patients to continue.

The proposals are, however, controversial as there are concerns about the risk of information being used as a means of advertising prescription-only medicines (such advertising is banned throughout the EU). The Office will follow the legislative process carefully with a view to ensuring that an appropriate balance is struck between promoting the provision of information and safeguards to prevent advertising.

Working time and temporary workers directives

Working with the NHS Employers EU team, we have monitored developments on the Temporary Workers Directive and the revision of the Working Time Directive and briefed NHS organisations on these in the course of the year.

We also prepared a briefing for Members of the European Parliament informing them of NHS views on the proposed revision of the Working Time Directive ahead of the vote in the European Parliament in December. The Office will continue to monitor developments and keep NHS organisations informed as appropriate.

Industrial pollution

The European Commission proposed a revision to the Integrated Pollution Prevention and Control Directive, which is intended to clarify and strengthen the existing European legislation on industrial pollution. A key change proposed is the extension of the scope of the legislation to cover smaller combustion installations, which means that despite the proposal’s emphasis on industrial emissions, over 70 NHS hospitals across the UK would be covered by this legislation for the first time.

We consulted all hospitals potentially affected and it emerged that these proposals would create a disproportionate burden on hospitals for the following reasons: several hospitals would be affected only because of their standby capacity and therefore their potential to emit rather than their actual emissions; and it seems “unfair” to assimilate hospitals to large industrial plants, which are the focus of this legislation.

Accordingly, we informed Members of the European Parliament and the European Commission of our concerns and proposed a change to the text of the directive to address them. The proposed amendment recognises the need for significant standby capacity in hospitals, which is vital to ensure the continuity of patient care in the event of a technical failure, and ensures that hospitals are not penalised for their potential for emissions rather than actual emissions. The decision-making process is still ongoing but to date our proposed change has been agreed by the European Parliament at first reading.

We have also briefed DEFRA, the leading government department, on our views. This included organising a visit for the leading official in DEFRA to the Royal Free Hamstead NHS Trust, one of the trusts potentially covered by the EU rules, to show practical aspects of standby capacity in NHS hospitals.

Medical devices

The Office responded to the EU consultation on the revision of the legal framework regulating medical devices in summer 2008. The NHS supports the general aim of this work in simplifying and strengthening the rules governing medical devices to ensure a high level of health protection and the smooth functioning of the internal market, but from an NHS perspective, we are not aware of any major problems with the existing medical devices regime.

In view of this, we welcomed the European Commission's proposals to consolidate the existing nine legal texts on medical devices into one single document, but cautioned against undertaking a wider set of actions proposed without further evidence to support the need for them. Following the consultation, the European Commission is expected to bring forward legal proposals.

Health inequalities

The Office responded to the European Commission's consultation on EU action to reduce health inequalities in March. The consultation was launched to feed into a European Commission Communication in this area to be released later this year.

The response emphasises that the reduction of health inequalities is a high priority for the NHS and NHS organisations are committed to taking action in this area. It also highlights that the NHS welcomes EU action to raise awareness of health inequalities and their consequences and to support member states' efforts to tackle them, in particular through supporting relevant research. However, it notes that tackling health inequalities is primarily the responsibility of member states and that we do not, therefore, think EU level targets would be appropriate.

Furthermore, the response stresses that health inequalities, and the factors that influence them, are complex and multi-dimensional and that, in view of this, whilst we believe that all parts of the health and social care system have a role to play in tackling health inequalities, wider initiatives, undertaken in partnership with other stakeholders, are also necessary. Action at EU level should similarly adopt a cross-sectoral approach and it is by giving due regard to the impacts that EU policies can have on health inequalities that we believe EU action can have the most added value.

3. Communication and NHS engagement

The NHS European Office has reviewed its ways of communicating with the different NHS sectors and organisations in order to ensure their engagement with EU affairs.

The detail below outlines the main activities undertaken by the Office to implement its communication strategy in the course of the year:

EU Leads

The European Office has identified EU Leads within each of the SHAs, who are responsible for acting as the contact point between the SHA and the European Office, to assist the Office in identifying NHS experts in specific policy areas, and to disseminate information on EU affairs in their region.

Expert and Specialist Contact Groups

Throughout the year the Office has established lists of contacts with expertise in specific policy areas relevant to the Office's work plan. This has proved hugely beneficial in helping us to fully gauge the implications of EU proposals for the NHS and in informing our responses.

Presentations and events

The Office gave a large number of presentations to NHS organisations throughout the year. This included various NHS Confederation Networks and memberships meetings, networks of NHS managers in specific policy areas, individual trusts, the annual conferences of the NHS Confederation and NHS Employers, the London PCTs chairs, the King's Fund Board Leadership Programme, the regional branches of the Health Estates and Facilities Management Association in London and the Eastern Region, the National Ambulance Strategic Fleet Group, the National Ambulance Heads of Procurement Group, the London Environment Network (managed by NHS London), the Board meeting of South East Coast Ambulance Trust, and the annual conference of the Northern Ireland Confederation for Health and Social Services. In addition, the Office exhibited its literature at the PCT Network annual conference, the NHS London Quality Summit, and the Service Delivery Organisation Network's conference.

Presentations have focused on introducing the role of the Office and its work plan, explaining how the EU operates, and presenting EU policy developments of particular importance to the NHS.

NHS News bulletins

The Office has used the various news bulletins of the NHS Confederation and its Networks to disseminate news articles on developments at EU level impacting on the NHS or requiring NHS input, and information on EU funding opportunities. Articles have contained links to more detailed information uploaded onto the NHS European Office website.

Non-NHS publications

The Office has contributed to a number of external publications: the Health Estates Journal (articles on the EU Emissions Trading Scheme and Energy Performance of Buildings), the 'Work Matters' supplement to 'Your Choice' magazine (articles on the European Working Time Directive and EU Emissions Trading Scheme), and 'The Source' magazine of the Health Estates and Facilities Management Association (article on public procurement).

Briefings and reports

The Office has produced general promotional material and a number of briefings on major EU policy developments, which have been widely disseminated to NHS organisations in the course of the year. The briefings have been predominantly produced with a view to informing NHS organisations of developments at EU level and to gain views on specific EU proposals in order for us to shape positions to be promoted to EU decision-makers.

4. Raising the Office profile to EU decision-makers and stakeholders

To mark its formal launch to EU decision-makers the Office organised an evening reception in the European Parliament in Brussels on 10 September 2008. The aim of the event was to raise awareness amongst EU decision-makers and Brussels-based stakeholders of the establishment of the NHS European Office and the contribution we can make to shaping EU policy and legislation.

The reception, which was hosted by a cross-party group of four UK Members of the European Parliament, was very well attended with over 150 high-level participants from across the EU institutions and key stakeholders.

The Office also carried out several other communication activities targeting EU decision-makers and stakeholders. This included writing to European Commission officials and numerous Members of the European Parliament to inform them of the establishment of the Office and our expertise. We have also held a series of meetings with key EU decision-makers and attended and participated in several events at European level. This included placing NHS speakers at EU events on cross-border healthcare, public health, and climate change and health.

In addition, we have established contact with key stakeholders working in areas relevant to our work plan and developed cooperation and alliances with several of them in the context of specific lobbying campaigns.

Our profile raising work will continue over the coming months, particularly in light of the European Parliament elections and the appointment of a new European Commission later this year.

5. EU funding programmes

The Office has monitored EU funding programmes and informed NHS organisations of opportunities. This has included drafting and circulating briefings on calls for project proposals under the health strand of the EU Research Programme (called the 7th Framework Programme for Research and Development), the Public Health Programme and the Competitiveness and Innovation Programme.

Given the strong focus of EU funding programmes on research and innovation activities the Office has started to explore how these programmes could add value to the research and innovation agenda of NHS organisations. This has included establishing contact with the Service Delivery Organisation Network, the Health Service Research Network, the Association of UK University Hospitals and the Medical Research Council as well as with Regional Innovation Hubs for Healthcare to identify possible synergies and discuss potential for co-operation.

We have also established contact with a number of SHAs to identify regional priorities in research and innovation, and to find out whether regional SHA innovation leads have been nominated. The focus on innovation, coupled with our work informing NHS organisations of funding opportunities, has resulted in a significant number of specific EU funding queries from several NHS organisations seeking information or participation in a European project.