

PERFORMANCE AGAINST NHS CONSTITUTION

1. Purpose of the report

This paper updates the Board on the PCT's progress on the implementation of the NHS Constitution.

2. Background

The NHS Constitution was published in January 2009 and was introduced as part of the 'Next Stage Review' led by Lord Darzi.

The NHS Constitution sets out a ten-year plan to ensure that the highest quality of care and services for patients in England is delivered. The NHS Constitution contains information relating to patients' *rights*, which are legally binding, and also refers to *pledges*, which, although not legally binding, represent a commitment by the NHS to provide high quality services. The NHS Constitution also sets out the key responsibilities patients, staff and the public.

Subject to parliamentary approval, all NHS bodies, private and third-sector providers supplying NHS services will be required by law to take account of the NHS Constitution in their decisions and actions. To this end, organisations will need to be able to evidence that they have given appropriate consideration to the NHS Constitution and justify any deviation from it.

3. NHS Birmingham East and North's state of readiness against the NHS Constitution

In November 2009, the Chief Operating Officer requested assurance of the organisations NHS Constitution state of readiness. This report summarises NHS Birmingham East and North's position against each area of the Constitution.

Ongoing assurance of the organisations performance against the NHS Constitution should be reviewed periodically by the board.

3.1. Identification of any risks to complying with the NHS Constitution and how these will be monitored and mitigated

The NHS Constitution does not create new rights but enshrines many of the current targets as minimum standards that Commissioners and Providers have to adhere to. Therefore there are assurances currently available to the Board through achievement of performance targets that many of the rights identified in the NHS Constitution are being delivered. It is also important to note therefore that the Board is already delivering many of its legal obligations in relation to the NHS Constitution.

However, as we amend and implement new policies and redesign services it is important that assurance is received to ensure that organisations continue to act within the NHS legal framework outlined in the NHS Constitution.

NHS Birmingham East and North have in place a comprehensive set of arrangements that provide assurance to the Board that it is compliant with legislation and will be achieving the legal entitlements contained in the Constitution. These assurances take many forms and include performance reports, internal and external audit reports.

The following table sets out the present progress made by NHS BEN to implement the NHS Constitution

Summary of performance against the constitution requirements

Part I: Patients and Public

<p>You have the right to receive NHS services free of charge apart from certain limited exceptions sanctioned by Parliament</p>	<p>Services provided free at the point of use</p>
<p>You have the right to access NHS services. You will not be refused access on unreasonable grounds</p>	<p>NHS BEN policy supports equal access regardless of race, religion, belief, gender or sexual orientation. All strategy and service redesign projects are supported by full equality impact assessments. This is supported by the PCT's core goal of no waiting</p>
<p>You have the right to expect your local NHS to assess the health requirements of the local community and to commission and put in place the services to meet those needs as considered necessary</p>	<p>NHS BEN makes use of a variety of tools and information sources to insure its strategy and redesign projects address the specific needs of the local population. This includes the work on needs assessment through the JSNA and the work through the PRIME programme and the use of typologies Specialist services are commissioned across the West Midlands by the Specialised Commissioning Team</p>
<p>You have the right, in certain circumstances, to go to other European Economic Area countries or Switzerland for treatment which would be available to you through your NHS commissioner</p>	<p>A policy is currently being developed by the Directorate of Resources (Primary Care Commissioning) on seeking treatment abroad.</p>
<p>You have the right not to be unlawfully discriminated against in the provision of NHS services including on grounds of gender, race, religion or belief, sexual orientation, disability (including learning disability or mental illness) or age</p>	<p>NHS BEN adheres to this right and the policy is reflected in all service specifications. Equality Impact Assessments are undertaken for all Strategies and Service Redesign initiatives.</p>

<p>The NHS commits to provide convenient, easy access to services within the waiting times set out in this Handbook to the NHS Constitution.</p>	<p>NHS BEN commissions all services to meet national waiting time pledges. Current performance against waiting times is as follows (green indicates meets target, red does not meet target):</p> <ul style="list-style-type: none"> • 2 week wait to see cancer specialist 91.75% • Max 31 day wait from decision to treat to start cancer treatment 97.87% • 62day referral to treatment for all suspected cancer patients 100% • 4hr wait in A&E from arrival to admission, transfer or discharge • Primary care access within 24 hrs or GP within 48 hrs 85.25% • Max 3 month wait for revascularisation 0% • Max 2 wk wait for chest pain clinic – HoEFT Target • Access to GUM clinic within 48hrs 99.63%
<p>The NHS Commits to make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered.</p>	<p>Appropriate Board papers are available through the NHS BEN website. Public Consultations are undertaken for service redesign and regular newsletters are published and made available to the public.</p> <p>Work is underway to involve the public in the prioritisation process through the investment / disinvestment group.</p>
<p>The NHS commits to make the transition as smooth as possible when you are referred between services, and to include you in relevant discussions</p>	<p>Referral and acceptance criteria are clearly stated in all service specifications and redesigned pathway plans. E.g. NHS BEN is currently commissioning End of Life services through a managed care pathway approach which aims to smooth transition. In addition the service is also piloting a family liaison service to act as a care coordinator and advocate on behalf of patients and their families as they progress through the</p>

	end of life pathway. This will enable them to make best use of the full range of services available.
You have a right to be treated with a professional standard of care, by appropriately qualified and experienced staff, in a properly approved or registered organisation that meets required levels of safety and quality	This is a requirement within all NHS BEN service specifications. In addition, NHS BEN requires all appropriate providers to be registered with the Care Quality Commission and be responsible for meeting quality and safety and registration standards on an ongoing basis.
You have the right to expect NHS organisations to monitor, and make efforts to improve, the quality of healthcare they commission or provide.	<p>NHS BEN uses the standard community and Acute contract which includes detailed quality and outcomes frameworks to enable measurement and continuous improvement of healthcare provision. This applies to all other contracts.</p> <p>NHS BEN is working with all its primary care contractors using a variety of contract performance monitoring frameworks to identify where quality improvements can be achieved.</p>
The NHS commits to ensure that services are provided in a clean and safe environment that is fit for purpose, based on national best practice.	All service providers are contracted by NHS BEN to meet all national policy and guidance relating to healthcare associated infections. In addition, national guidance is also employed within the design of new healthcare facilities.
The NHS commits to continuous improvement in the quality of services you receive, identifying and sharing best practice in quality of care and treatments	All service specifications require services to demonstrate continuous improvement activity. In addition, NHS BEN looks to implement DH policy and best practice in all service design. NHS BEN is also involved in designing a number of innovative services to improve service quality. E.g. Healthcare at Home, Birmingham Ownhealth.
You have the right to drugs and treatments that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you.	<p>All NICE approved medications and treatments are adopted as a matter of course by NHS BEN.</p> <p>This work is assured by the Individual Funding Request Panel that deal with requests for treatments not yet</p>

	commissioned routinely
You have the right to expect local decisions on funding of other drugs and treatments to be made rationally following a proper consideration of the evidence. If the local NHS decides not to fund a drug or treatment you and your doctor feel would be right for you, they will explain that decision to you.	NHS BEN Integrated Governance Committee have recently approved an updated policy on Individual Funding Requests (IFR) that is compliant with the NPC guidance on 'local decision making' and meets the requirements of NHS BEN's commissioned Audit report on IFR. Furthermore NHS BEN is supporting the WMSHA region wide policies on IFR which will be presented to IGP in January 2010.
You have the right to receive the vaccinations that the Joint Committee on Vaccination and Immunisation recommends that you should receive under an NHS provided national immunisation programme.	All vaccinations are provided via GP's / Early Years and dedicated HPV and Flu vaccination programmes.
The NHS commits to provide screening programmes as recommended by the UK National Screening Committee	NHS BEN Provides a full range of screening programmes including breast, cervical cancer and bowel cancer
You have the right to be treated with dignity, and respect, in accordance with your human rights	All service are commissioned on this basis
You have the right to accept or refuse treatment that is offered to you, and not to be given any physical examination or treatment unless you have given valid consent. If you do not have the capacity to do so, consent must be obtained from a person legally able to act on your behalf, or the treatment must be in your best interests.	All services are commissioned on this basis
You have the right to be given information about your proposed treatment in advance, including any significant risks and any alternative treatments which may be available and the risks involved in so doing.	All services are commissioned on this basis
You have the right to privacy and	All services are commissioned on this

<p>confidentiality and to expect the NHS to keep your confidential information safe and secure</p>	<p>basis</p>
<p>You have the right of access to your own health records. These will always be used to manage your treatment in your best interests.</p>	<p>All services are commissioned on this basis and NHS BEN follows the principles laid out within the data protection and freedom of information acts.</p>
<p>The NHS commits to share with you any letters sent between clinicians about your care</p>	<p>All services are commissioned on this basis and NHS BEN follows the principles laid out within the data protection and freedom of information acts.</p>
<p>You have the right to chose your GP practice, and to be accepted by that practice unless there are reasonable grounds to refuse, in which case you will be informed of those reasons</p>	<p>All GP services are contracted on this basis</p>
<p>You have the right to express a preference for using a particular doctor within your GP practice, and for the practice to try to comply</p>	<p>All GP services are contracted on this basis</p>
<p>You have the right to make choices about your NHS care and to information to support these choices. The options available to you will develop over time and depend on your individual needs.</p>	<p>All services are commissioned on this basis. NHS BEN commissioning strategy promotes the development of choice within the range of services it provides</p>
<p>The NHS commits to inform you about the healthcare services available to you locally and nationally. The NHS commits to offer you easily accessible, reliable and relevant information to enable you to participate fully in your own healthcare decisions and to support you in making choices. This will include information on the quality of clinical services where there is robust and accurate information available.</p>	<p>NHS BEN provides information to patients in a range of formats and there are a number of opportunities to access this information at a clinic / hospital / GP level and also through the internet, newsletters and publicity.</p>
<p>You have the right to be involved in discussions and decisions about your healthcare and to be given information to enable you to do this</p>	<p>NHS BEN undertakes public consultations for significant service redesign work such as the new secure mental health unit and the change in use of Sutton Cottage Hospital. Commissioners actively seek to</p>

	<p>involve patients and carers in all redesign initiatives e.g. end of life care has undergone significant redesign and Rosetta Life were commissioned to seek patient and carer views to inform this work.</p> <p>This links to the work of the PPI and directly relates to the goal to develop the most informed, empowered and involved communities</p>
<p>You have the right to be involved directly or through representatives in the planning of healthcare services, the development and consideration of proposals for changes in the way those services are provided and in decisions to be made affecting the operation of those services</p>	<p>As above</p>
<p>The NHS commits to provide you with the information you need to influence and scrutinise the planning and delivery of NHS services</p>	<p>In addition, to active formal and informal public and patient engagement, the PCT publicises plans on its website and within its newsletters, giving the opportunity for people to be involved in the decision making process.</p>
<p>The NHS commits to work in partnership with you, your family, carers and representatives.</p>	<p>This is done through the planning stages as outlined above and also through the design of services and introduction of for example, family liaison workers for end of life care</p>
<p>You have the right to have any complaint you make about NHS services dealt with efficiently and to have it properly investigated</p>	<p>NHS BEN has a formal complaints process which follows national guidance and policy. The Complaints Team provides advice to people wishing to make a complaint.</p>
<p>You have the right to know the outcome of any investigation into your complaint.</p>	<p>Within the complaints process, NHS BEN promises to write to all complainants to inform them of the outcome of any investigation as part of the complaints process within a specified timescale.</p>
<p>You have the right to take your complaint to the Independent Health Service Ombudsman, if you are not</p>	<p>Complainants are advised of this right as part of the complaints procedure</p>

<p>satisfied with the way your complaint has been dealt with by the NHS</p>	
<p>You have the right to make a claim for judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body</p>	<p>NHS BEN Complaints Team advises patients of this right where appropriate</p>
<p>You have the right to compensation where you have been harmed by negligent treatment</p>	<p>NHS BEN Complaints Team advises patients of this right where appropriate</p>
<p>The NHS commits to ensure you are treated with courtesy and you receive appropriate support throughout the handling of a complaint; and the fact that you have complained will not adversely affect your future treatment</p> <p>The NHS commits, when mistakes happen, to acknowledge them, apologise, explain what went wrong and put things right quickly and effectively</p> <p>The NHS commits to ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services</p>	<p>The NHS BEN Complaints Team supports people going through the official complaints process</p> <p>NHS BEN includes this as part of the complaint handling policy</p>

Part II: Staff

<p>Right to fair treatment regarding leave, rights and flexible working and other statutory leave requests relating to work and family, including caring for adults that you live with.</p>	<p>NHS BEN has Leave, flexible working policies and carers leave policies which apply to all staff</p>
<p>Right to request other 'reasonable' time off for emergencies (paid and unpaid) and other statutory leave (subject to exceptions).</p>	<p>This is covered in the NHS BEN leave policy which applies to all staff</p>
<p>Right to expect reasonable steps are taken by the employer to ensure protection from less favourable treatment</p>	<p>NHS BEN has a bullying and harassment policy and a grievance procedure which applies to all staff</p>

by fellow employees, patients and others (e.g. bullying or harassment).	
Right to pay consistent with the National Minimum Wage or alternative contractual agreement. Right to fair treatment regarding pay	NHS BEN complies with agenda for change and minimum wage agreements.
Right to be accompanied by either a Trade Union official or a work colleague at disciplinary or grievance hearings in line with legislation, your employer's policies or your contractual rights	This is included within all relevant NHS BEN Human Resources Policy
Right to consultation and representation through the Trade Union or other staff representatives (for example where there is no Trade Union in place) in line with legislation and any collective agreements that may be in force	This is included within all relevant NHS BEN Human Resources Policy
To work within a healthy and safe workplace and an environment in which the employer has taken all practical steps to ensure the workplace is free from verbal or physical violence from patients, the public or staff, to work your contractual hours, take annual Leave and to regular breaks from work.	NHS BEN has staff policy and procedures in place that reflect these requirements
To a working environment (including practices on recruitment and promotion) free from unlawful discrimination on the basis of race, gender, sexual orientation, disability, age or religion or belief.	NHS BEN has staff policy and procedures in place that reflect these requirements
Right to have disciplinary and grievance procedures conducted appropriately and within internal and legal requirements.	NHS BEN has staff policy and procedures in place that reflect these requirements
Right to appeal against wrongful dismissal	NHS BEN has staff policy and procedures in place that reflect this requirements
If internal processes fail to overturn a dismissal, you have the right to pursue a	NHS BEN has staff policy and procedures in place that reflect this requirements

claim in the employment tribunal, if you meet required criteria	
To protection from detriment in employment and the right not to be unfairly dismissed for 'whistleblowing' or reporting wrongdoing in the workplace.	NHS BEN has staff policy and procedures in place that reflect this requirements
You have a right to employment protection in terms of continuity of service for redundancy purposes if moving between NHS employers.	NHS BEN employs appropriate TUPE and continuing service regulations where appropriate
You have rights relating to the ability to join the NHS pension scheme	All NHS BEN staff are given these rights
The NHS commits to provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities	All NHS staff have a clear job description and KSF outline
The NHS commits to provide all staff with personal development, access to appropriate training for their jobs and line management support to succeed	All NHS staff have a clear job description and KSF outline and regular reviews with Managers to discuss personal development. In addition, the PCT offers a range of training courses for staff.
The NHS commits to provide support and opportunities for staff to maintain their health well-being and safety	Health and Safety policies reflect national guidance and law and apply to all staff
The NHS commits to engage staff in decisions that affect them and the services they provide, individually, through representative organisations and through local partnership working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families.	The PCT works closely with unions and staff. There are opportunities for staff to feed back views and suggestions and also an annual staff survey is undertaken.

4. Recommendations

The Board is asked to:

- Note the progress made and discuss any risks to compliance with the NHS Constitution
- Agree a reporting mechanism for ongoing governance of compliance with the NHS Constitution