



The Association of Directors of Public Health Consultation Response

Section 75 of the NHS Act 2006

Objectives and Scope

This consultation seeks views on changes to section 75 of the NHS Act 2006 to increase the use of pooled budgets to support the integration of health and care. Responses will inform whether the scope of section 75 should be widened, any perceived barriers to pooling of budgets and how the governance of section 75 arrangements could be strengthened or simplified.

About ADPH

ADPH is the representative body for Directors of Public Health (DsPH), and is a collaborative organisation, working in partnership with others to strengthen the voice for public health, with a heritage which dates back over 160 years. ADPH works closely with a range of Government departments, including UKHSA and OHID as well as the four CMOs, NHS, devolved administrations, local authorities and national organisations across all sectors to minimise the use of resources as well as maximise our voice.

ADPH aims to improve and protect the health of the population by:

- Representing the views of DsPH on public health policy.
- Advising on public health policy and legislation at a local, regional, national and international level.
- Providing a support network for DsPH to share ideas and good practice.
- Identifying and providing professional development opportunities for DsPH.

Our Position

Response to individual questions

Section 1: Current section 75 partnership arrangements and impacts

Please answer as many of the questions as possible with specific examples of how any changes may lead to improved care and consider services in relation to both adult and children's services.

Q1: In your experience, to what extent do you agree or disagree that the current section 75 partnership arrangements allow effective commissioning of NHS functions and local authority health related functions?

- Agree

Please explain your answer and provide specific examples

ADPH agree to an extent with the above. Section 75 partnerships are effective where relationships are mature.

Section 5: Widening the scope of section 75 of the NHS Act 2006 to incorporate protection of public health functions

Q9: From the following functions which, if any, do you think should be included in the section 75 arrangements? Select all that apply.

- None

Please explain your response with specific examples of how this could lead to improved care. Please explain the risks and/or benefits of any changes and any mitigation that may reduce risks.

ADPH strongly disagrees with widening the scope of section 75 to incorporate protection of public health functions. The current way that these functions are commissioned ensures that services are delivered by qualified specialist staff, who consider the local context and evidence. By moving health protection functions into section 75 there is a risk that local populations will receive a lower standard of service.

The protection of public health functions that are listed above are currently addressed at a regional or national level. Delivery of functions at this level ensures that there is strong system delivery, resilience, and quality assurance and prevents unwarranted variation from occurring. If the functions were to be incorporated under section 75, this would mean significant fragmentation in delivery, and a decline in quality of these functions because of that fragmentation. UKHSA must be accountable for these functions to ensure strong system delivery. UKHSA also ensure that there is oversight and accountability of the functions at a national level.

In addition to fragmentation, we also have concerns that under section 75, the protection of public health functions would not be delivered by a specialist workforce. These functions are currently delivered at a higher level by a workforce who are trained in public health which ensures there is a high quality of function. It is important to emphasise that there are already concerns about the number of health protection specialists at a local level. If the functions were moved into section 75, there would not be the level of expertise available in each area, which causes the risk of unwarranted variation and a decline in quality.

Section 6: Widening the scope of section 75 of the NHS Act 2006 to incorporate improvement of public health functions

Q10: From the following functions, which, if any, do you think should be included in the section 75 arrangements?

- None

Please explain your response with specific examples of how this could lead to improved care. Please explain the risks and/or benefits of any changes and any mitigation that may reduce risks.

ADPH strongly disagrees with widening the scope of section 75 to incorporate improvement of public health functions. There is a risk of reducing specialist areas of public health to only delivering healthcare public health for the NHS, which would fragment public health specialist advice and weaken the quality of service that populations receive.

The inclusion of the listed functions within section 75 raises concerns around a potential move to employ unqualified people to deliver the specialist public health advice. With a rise in population health teams in Integrated Care Boards (ICBs), which contain very few qualified public health specialists, we are concerned the leadership of these functions will fall to them, resulting in a weakened deliverance by non-qualified individuals, as well as duplication of work and fragmentation of the specialist PH function.

Increased funding associated with this does not ensure the ability to implement the listed functions. Current pressures in the system are leading to an increased focus and spend on the NHS and adult social care functions, squeezing out the opportunities to focus and spend on longer term prevention programmes. Therefore, increasing the range of public health related functions that can come within a section 75 arrangement is unlikely to lead to an improvement in public health.

Section 7: Any other additional health related functions

Q11: Are there any other local authority health-related or NHS functions that you think should be included in section 75 arrangements?

- No

Please provide examples of why or how this would improve care provided. What are the risks or benefits of any suggested changes?

For the reasons outlined above, ADPH do not believe that any other local authority health-related or NHS functions should be included under section 75 arrangements.

Section 8: Organisations that can enter into section 75 arrangements

Q12: Do you think we should widen the range of organisations that can enter into section 75 arrangements beyond NHS bodies and local authorities?

- No

Please specify which, if any, additional organisations you think should be included for adult and children's services and explain why. For example, housing, justice, education, voluntary, community and social enterprise (VCSE), and care providers. Please provide examples of why or how this would improve care provided. What are the risks or benefits of any suggested changes?

ADPH disagrees that any of the listed organisations should be able to enter into a section 75 arrangement.

Many of the listed services above are already delivered by local authorities, therefore widening section 75 to include these organisations would be duplicating the intended purpose of DsPH being placed inside the local authority in their local area. During the 2013 Health and Social Care reforms, when DsPH moved into local authorities in England, one of the intended purposes was that a focus on public health could be incorporated more widely across local authority services such as housing and education. Whilst sitting in local authorities, DsPH are able to use the ring fenced public health funding allocations that they are given to best suit the needs of the local area. There is a concern that increasing section 75 to cover these areas would not only duplicate the purpose of DsPH sitting in local authorities but would also increase the assurance controls that DHSC has over public health resources. Integrating services in section 75 is not likely to achieve its aims, it will increase the difficulty of governance and risks creating disputes over funding which historically has led to negative outcomes for public health.

Although ADPH agrees that all the above organisations have a role to play in the health and wellbeing of the local population, duplicating the existing local authority remit under section 75 is not recommended.

Q13: Do you think that combined authorities should be included as bodies that can enter into section 75 arrangements for both local authority health-related functions and NHS functions?

- No

Please explain your answer and give examples with consideration of the risks or benefits.

ADPH does not think combined authorities should be included as bodies that can enter into section 75 arrangements for local authority health-related functions and NHS functions.

The reasons for this are largely similar to those outlined in the previous question. DsPH sit within combined authorities with the specific aim of having influence over a wider group of stakeholders who make decisions which affect local public health. There are some instances where there is already joint working, such as school health and health visitors.

Extending section 75 to combined authorities with the aim of increasing the spend on public health is likely to lead to fragmentation in funding and in delivery and reporting for public health services. It also risks creating more restrictions on public health spending, increasing the difficulty of governance and creating disputes over funding which historically has led to negative outcomes for public health.

Therefore, ADPH do not recommend combined authorities being able to enter into section 75 arrangements.

Section 9: How Section 75 arrangements work

Q16: Do you think any additional safeguards would be needed if combined authorities could enter into section 75 arrangements for both local authority health-related functions and NHS functions?

- Yes

Please explain your answer with examples and consideration of the risks, mitigation and benefits.

Yes, ADPH strongly believes there should be a continuation of the ring fence on the public health grant conditions to ensure spending on public health is protected and not used for other purposes.