



practice management

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Phil Walton considers the structural implications of its introduction.

On January 19, 2011, the Health and Social Care Bill was published, which is currently working its way through Parliament. Its second reading took place on January 31, at which it was recommended the Bill should be sent to a Public Bill Committee for scrutiny.

The bill will see the introduction of GP consortia, being bodies accountable for commissioning services from April 2013. It is envisaged these consortia will be handed the bulk of the £100bn health budget for buying-in services for patients. All general practitioners will be required (and indeed can be compelled) to join a commissioning consortium, and a new NHS Commissioning Board

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will oversee the commissioning process. Accordingly, 152 primary care trusts and the 10 strategic health authorities will be scrapped.

A consortium will have to apply to the board for approval to act in an official capacity. Furthermore, should a consortium decide to later alter or amend its constitution, this will once again require board approval. The board's main concern will be to ensure the consortium in question is able to discharge its duties as to effectiveness,



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efficiency, and delivery of quality services.

Under clause 6 in part 1 of the bill, it is clearly intended GP consortia are to be bodies corporate, though notably no stipulation has yet been placed on the exact type of corporate vehicle for this purpose. A consortium therefore has a number of options available to it, including forming a limited liability partnership or perhaps a limited liability company (whether limited by shares or by guarantee). This of course means being unincorporated (a simple partnership) will not be possible.

Guidance on the corporate structure of GP bodies and the application process, according to the bill, may be released

by the board when it begins officially approving GP consortia in April 2012.

Therefore GP practices should continue to form limited liability partnerships to regulate their own practice, for the dual benefits of tax transparency and limited liability. However, where a joint venture is required, in other words the forming of a GP consortium, the most flexible and recognised entity available remains the limited liability company, with over 150 years of legislation and case law behind it.

The key for GPs is to be prepared and ensure your practice is not compelled to join a consortium with which you have no relationship. ■



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