The role of non-executive directors in the new world of integrated care

By Professor Usman Khan

The NHSE/I paper Integrating care: next steps to building strong and effective integrated care systems across England does a good job of formalising and progressing the conversation about integrated care in England.

It freshly articulates the ambition to see greater collaboration between partners in health and care systems. It describes some of the challenges associated with that increased collaboration. And it sets out some of the options for giving integrated care systems (ICSs) a firmer footing in legislation, likely to take effect from April 2022.

But what happens until that legislation is in place? There is broad agreement about the general principles behind this drive for integration. But so far each of the systems taking shape across the country has had to come up with its own informal arrangements about how they operate and how they are governed.

Some of the new systems have been built with input from non-executive directors of their constituent bodies but many have relied purely on the chairs and chief executives. That means that most ICSs are currently ungoverned solutions, in the sense that they lack both legal form and the benefit of non-executive oversight. In many cases, it's the leadership approach of the independent chair that dictates the shape of governance at a health system level.

Many people are still using the phrase 'coalition of the willing' to describe the way ICSs work – and they say this as though it's a good thing. But perhaps it is not. ICSs are making big, important decisions but in many cases they're doing so without sufficient board scrutiny. And what happens in a coalition of the willing if some of the members of that coalition suddenly aren't willing because they disagree with a collective decision? Would those decisions be binding?

Currently, the leadership of most ICSs comprises the chairs of their constituent organisations. This certainly makes for a representative leadership group but not necessarily one that brings a good mix of skills to the decision-making process. It's that rich mix of skills and backgrounds that reminds us of the importance of non-executive oversight.

Knowns and unknowns

It's useful to orientate ourselves as we take a breath before the big push to integration that will take place in 2021. Thanks to the NHSE/I paper there is plenty that we know. But there also remains a great deal that we don't know yet.

Starting with what we know: we understand the timeline we're working to, we know the baseline we're starting from, and we know the intent – what ICSs and ICPs should be and how they will differ from existing arrangements.

Among the unknowns are the end point for this process: when will the transformation be complete? We don't yet know about the settling process for ICPs and ICSs and what their governance profile will look like. And we still don't know about Covid's full legacy and the impact it may have on partnership working.

ICS governance options

From the NHSE/I paper there emerged two possible models for ICSs:

1. A statutory committee model with an accountable officer that binds together current statutory organisations
2. A statutory corporate NHS body model that additionally brings CCG statutory functions into the ICS

For now, it remains a matter of conjecture about which way it's going to go. We have a sense of the direction of travel but not the precise details about what it's all going to look like.

This kind of uncertainty is a fertile breeding

ground for discussion and there has been plenty of that, from organisations such as the NHS Confederation and the King's Fund, but very little of it has dwelt on the role of NEDs; there's been much more focus on the role of the wider partners in integrated care.

There is one very helpful NHS Confederation paper, called Building common purpose, that talks about embedding a strategic approach to engagement and communication, adopting a systematic approach to continuous relationship building, developing a shared vision and narrative and making it real, and developing engagement and communications leadership, strategy and expertise. But those of us who have long histories in the NHS know that a lot of this could have been said 25 years ago. Are things really going to be different this time?

What are NEDs already doing?

There are a range of ways that non-execs are already getting involved around the country in what are still ungoverned systems – for the time being still lacking legal assurance behind their activities.

ICSs have been described as load-bearing structures – a phrase that certainly resonates – but if they are going to carry that weight for the health and social care community, what will it mean to be able to move beyond the independent chair towards a system of governance that is credible and capable of bearing that load?

The importance of place has certainly emerged during the transition period. We have seen considerable focus from NEDs on their role of representing a specific locality as well as an organisation.

There's also an interesting rebuilding of the idea of subsidiarity going on. Looking at the 80/20 principle, perhaps non-executives should be thinking about what the most appropriate place would be for decisions to be made. Maybe ICSs should only be taking 20% of the decisions with the remainder taken at a devolved, institutional level.

Perhaps we should be adopting a 'thin governance' approach, having the bare minimum coverage of governance. The question is whether this would lead to the desired agility or to inadequate governance.

The Covid effect

The Confederation report said: 'The pandemic created a common purpose that in many areas broke down barriers and enabled services to be transformed for the benefit of patients, local communities and staff.'

It's certainly had an effect on the role of non-executives as they have improved their ability to reach out, connecting with staff and wider communities through technology. But what does this mean going forward? Perhaps non-execs should recognise that they now have a responsibility to act differently.

NEDs need to think about their point of departure – where they are within their organisation. If they are going to get involved in ICSs and ICPs they need to consider where they are anchored, what their responsibilities are within their anchor organisations and how they can split their governance responsibilities between their home organisation and other elements of the system.

One thing non-execs can certainly bring to this process is the non-health reference points that broaden their perspective and means they truly understand governance. They should consider whether they are enablers or facilitators – and they should always have in the back of their minds the judicial review test. Would their activities withstand the scrutiny of a judicial review?

Stepping off points

There are a few questions that non-executive directors would benefit from discussing now:

1. What does good look like? How should the role of the non-exec evolve?
2. Which tables should NEDs be sitting at? How does their ICP/ICS role sit with their other responsibilities?
3. What key attributes or skillsets will they need moving forward – as they attempt to balance their important role around assurance with driving the process of change.
4. How can NEDs assess their impact and effectiveness?

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