Statement by Professor Allyson Pollock, David Price and Peter Roderick in response to the Lib Dem "40 points" document

9th March 2012

Liberal Democrat peers have circulated a document, summarising "more than 40 key changes already secured by Liberal Democrats" to the Health and Social Care Bill.

There is no doubt that Liberal Democrat peers have succeeded in making the Health and Social Care Bill less bad. However, *the fundamental policy behind the Bill remains intact – to abolish the National Health Service - and introduce mixed financing and greater commercialisation and commercial control over the scope and allocation of government funded health care.*

Legal duty of Secretary of State to provide is abolished

The legal duty of the Secretary of State to provide a National Health Service has been abolished, replaced by a political declaration and a duty on list-based clinical commissioning groups (CCGs) whose GP members are permitted to use and will have to use commercial organisations such as McKinsey and KPMG to enter into thousands of contracts on behalf of the CCGs – all subject to commercial confidentiality.

Competition chapter has not been dropped

Competition will increase, and competition rules will increasingly apply. Far from deleting the competition chapter as called for by Shirley Williams in her Guardian article on 13th February, this week Liberal Democrat peers:

- agreed to delete only three of the eleven clauses of that chapter;
- voted against their own amendment aimed at preventing competition rules from obstructing the NHS, and
- voted against an amendment to require Monitor to treat competition and collaboration equally.

Cherry picking by providers is not outlawed

Of particular concern is the statement in the "40 point" document that the Bill outlaws cherry-picking – repeating what Earl Howe said in the House of Lords this week, and what Baroness Jolly writes in her Guardian letter on 9th March. This is not only wrong, but the opposite of what the Bill says.

Clause 103 of the Bill requires all providers to decide whether and how to cherry-pick, in that they must **set and apply eligibility** and selection criteria. Those criteria must be transparent, and must be applied transparently. As the Explanatory Notes to the Bill state, that is intended to "enable Monitor to minimise the scope for providers to make extra profits by 'cherry picking'- i.e. delivering a service only in less complex cases – by requiring them to be transparent about their patient eligibility and selection criteria". The government and Liberal Democrat peers are misrepresenting Clause 103: transparent eligibility criteria transparently applied is not outlawing cherry-picking, it is expressly providing the framework for it and intending openness to minimise it.

The Bill legalises fewer services for fewer people, for introducing charges for services currently free, and for excluding people

This Bill would establish the legal basis:

- *for providing fewer services* than those commissioned by Primary Care Trusts (PCTs) under their duty to provide, by proposing to give local authorities only discretionary powers to commission 20 categories of services

- *for providing fewer services* that are currently part of the NHS, by giving the power to clinical CCGs to decide if provision is appropriate as part of the health service - namely for pregnant women, women who are breastfeeding, young children, the prevention of illness, the care of persons suffering from illness, and the after-care of persons who have suffered from illness - thus permitting commercial considerations to influence what would be regarded as appropriate as part of the health service;

- *for introducing charges for services that are currently free under the NHS,* including charges on individuals for public health services provided through the local authority; and

- *for excluding people from health services*, through secondary legislation.

The government has no mandate for this Bill from the electorate or in the coalition agreement.