



**'If rules are changed to enforce the preferred provider policy, the panel will be enforcing anti-competitive behaviour'**

**'Commissioners have a clear duty to commission care that improves the health of their populations'**

these circumstances an organisation that was set up to protect the NHS from the application of competition law would have become anti-competitive. Commissioners would then have to make their own judgements about whether their actions were legal.

Sixth, the day before this speech the DH published its world class commissioning assurance regime. Over the next few weeks every PCT in the country will be judged against its capacity to deliver on these competencies.

Several of the competencies demand that PCTs are able to make markets, intervene in them and procure health services to create the best value for money. For example, competency seven says PCTs need to stimulate markets and "the benefits of changing providers". Competency nine on

procurement says that PCTs should have contracts with defined break clauses.

World class commissioning does not say PCTs should tender everything all the time. It does say they should have the opportunity and the skill to do this when they think it is right for the health and healthcare of their population.

#### **Weapon of competition**

PCTs' success in meeting these competencies will be judged on a four-point scale. If PCTs follow the health secretary's provider preference they will all be at risk of getting the lowest grades on these competencies.

Apparently Mr Burnham wants to issue new world class commissioning assurance guidance that would in some way back up his provider preference. Does that mean he will tear up what was issued a

month ago and instead issue a set of guidance which gives high marks to PCTs that don't create markets and that don't procure? Or in fact is the new guidance going to have to wait for next year and therefore, for this year, PCTs will still be expected to make markets?

Seventh, the health secretary says he expects PCTs to improve value for money at a much faster rate. To achieve this they will need every possible lever of power and influence over the health system.

As a result, this is not the best time to deny the NHS the weapon of competition to drive up value for money.

PCTs have been working with these seven different policies to improve the outcomes they commission for patients. They should continue to follow that approach.

PCTs are non-political organisations. But, as part of the NHS, they could look to the manifesto the government was elected on. There they would find the policy people voted for said: "Whenever NHS patients need new capacity for their healthcare, we will ensure that is provided from whatever source."

So both the electorate and commissioners place a preference for patients over that of any single provider. ●

*Paul Corrigan is a management consultant and executive coach.*  
**See Resource Centre, pages 20-21**