Browne Jacobson

Building systems – the lessons to be learned

At Browne Jacobson, we have been working with NHS and local government bodies at national and more local levels on this system reform, and so this is a question we've been working to answer for some time.

23 May 2022

We hear a lot about systems thinking these days, and are increasingly recognising that much of the work of local government is embedded within complex systems. We also understand that to make a difference on some of the biggest issues we face - the environment, regeneration, health, for example – we need to be able to work in this systems context.

One of the biggest system transformation projects at the moment is the move to integrated care systems (ICS), a project which is not simply about the entities which will come into being in July, but about the way system working has evolved up to this point, and the way it will continue to evolve.

The question we've all got to answer if ICSs are to be a success is how do we take our broad understanding of health and care as a system, and use this to implement effective health and care reform? With an emphasis on ICS regions and places being able to develop their own strategies and governance, this is a key question for those in local government with a role in care and the broader determiners of health.

At Browne Jacobson, we have been working with NHS and local government bodies at national and more local levels on this system reform, and so this is a question we've been working to answer for some time. Last year, we commissioned LGiU to undertake research, based on developments to date, to explore how great systems are built. The result is the LGiU paper "Local Health Systems: Relationships Not Structures", launched at the end of April at an event hosted by the all-party parliamentary group on local government.

Both the report and the launch event highlight the key role of local government within health systems. Not only is local government responsible for core services, but local authorities also have a role in many of the well established factors which determine whether neighbourhoods, places, and communities are more or less likely to enjoy good health. To not only improve health, but also reduce inequality, this ability to engage on broad issues at a local level is key. But this only works if measures take place as part of a system response.

The key message

There is a lot of insight in the report, but the key message is in the name: systems are built on relationships and not structures. Not only that, but the relationships need to be built around a clearly articulated, shared purpose.

This can come about in more than one way. As the case studies in the paper demonstrate, sometimes purpose can be discovered from within existing relationships, as when existing system partners identify common objectives, on which they can collaborate.

Sometimes the purpose comes first, and it is necessary to ask the question 'who else do we need to get to know if we're going to achieve this outcome'. In this case the next step becomes real investment in the relationship, to ensure it is built around trust and purpose.

This doesn't mean that structures, such as how committees are constituted, governance arrangements, or schemes of delegation, aren't important. Of course they are, but they need to follow, reflect, and support purpose and relationships. If they do, they can enhance system working. If they do not then those structures become pinch points or even barriers. At best, people will expend energy trying to find ways around them. At worst they will find themselves blocked from doing what they need to.

Cultivating Mindset

The research also identifies attitudes and mindsets as key barriers to effective system working. A major example of this is risk aversion. As one contributor at the launch event put it, it is often necessary to deliver substantial evidence to support the effectiveness of improved ways of working before they are approved, and yet substantial evidence that current practices are not working may be disregarded. When exploring this issue, I often emphasis the need to identify risk in the 'do nothing' scenario (i.e. the shortcomings of the status quo) in addition to considering risks and benefits of new approaches.

There is also a need to recognise that until something new is tried, evidence is difficult to obtain. Use of pilots and agile methodologies to test and develop initiatives – the check-plan-do approach explored in the report - can allow delivery of change initiatives in these circumstances.

But we also need to nurture cultures in which innovation is viewed positively, in which it is safe to fail, and in which learning is taken from both successful and unsuccessful pilots in order to deliver the next iteration of a service. The complexity of systems means that simple, linear cause and effect approaches will rarely be effective (and are likely to bring unintended consequences) while a more open minded approach to exploring 'what if we..' ideas and opportunities can lead to real improvement and a broader understanding of the effect of interventions.

Cultivating relationships

Systems are all about networks, and more connections can improve both system performance and resilience. Leaders must give their teams permission and support to explore relationships.

Now more than ever this is important. New ways of working will require new relationships, and we can all benefit from checking our existing networks for gaps, then working to fill them. But this isn't just for now. Rich networks reduce 'single point of failure' risk which exists where, for example, inter-organisation working is driven through a single person.

Where do we need to be looking to build these relationships? In health systems, the health and care nexus is certainly an important one. But so are relationships between different tiers of local government. In this context there is much less guidance at present on how collaboration should happen, but there is no doubt that functions like housing, planning and benefits advice delivered by districts can be important aspects of health and care delivery. Building the right relationships is key to delivery across tiers.

The right tools

It is clear that stretched resources and funding models need to be addressed. It is not possible to keep delivering more with the same or less resource, and consolidated, long term, predictable, accessible, funding is needed to deliver any long term project well. The devolution proposals in the levelling up white paper hold out the promise of some improvement in this regard, though with conditions attached.

This has a knock on effect on all those people we are asked to deliver systems change. Uncertainty, time pressure due to lack of resource, and lack of 'head space' means steps like network development, sharing experience and developing opportunities may be squeezed out.

But the research is clear that these are the things which ultimately drive improvement and, without for one moment downplaying the very real challenges of resource and funding, it is also important to recognise that we chose how to prioritise these activities, and whether we create cultures in which they are valued.

It is also likely there are areas of activity in which we are failing to use our whole toolkit to support improvement. I see this arising where an end user asks an over-narrow legal question which could result in an answer that becomes an obstacle to a project. A panellist highlighted how to avoid this trap when they described how they had asked for an outcome, and left it to the experts to work out the route to it. By ensuring we know the intended outcome of a project, we have a far better chance of being able to find the tools that will allow us to get there.

Finally, if we really do not have the right tools at our disposal (whether these are financial, legal or something else) then we have a much better chance of securing them if we can form alliances with system partners, identify clear priorities for external change, and lobby for the change with a single voice. Once more, relationships may be the key.

Working in systems

ICSs will come into being on 1 July, when the essential structural elements required by the Health and Care Act will be put in place, but working in systems is not about a single date, or a few new entities. Indeed, there is no expectation ICSs will in their final form come July - it is much better to consider the date a start line than a finish line, and this is much more a marathon than a sprint!

Devolution deals are now on offer to all areas of the country, and here again we are looking at a systems problem. There are opportunities for local authorities to come together to develop new arrangements for their region, and to secure new powers, but this too needs to be based on relationships and purpose. If it is, this may help us address some of the funding concerns highlighted by the research.

In this context, there is little doubt that we will all have cause to practice our system thinking in the coming months and years. The report provides a timely and important reminder of how we can do this well. Local government at all levels needs to engage with purpose in the ICS projects impacting their citizens. The first and best way of doing this is not through structures, but through identifying and investing in the relationships that can support collaboration to achieve the outcomes that local people and places deserve.

This was first published by the Local Government Lawyer on 20 April 2022.

Contact
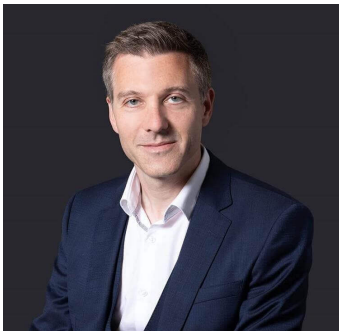
James Arrowsmith

Partner

james.arrowsmith@brownejacobson.com

+44 (0) 330 045 2321

Related expertise

Services

Constitutional and administrative law

Integrated healthcare systems

Public law

Welsh law and devolution