

# Labour questions legal basis for abandoning NHS treatment targets – Ashworth

Labour have today questioned the basis for the downgrade of NHS treatment targets announced this week, saying the changes could contravene patients' legal rights under the NHS Constitution.

Speaking on Sky's Sophy Ridge Show this morning, Labour's Shadow Health Secretary Jonathan Ashworth said he would write to Health Secretary Jeremy Hunt seeking urgent clarification of the legal advice underpinning the move.

**Jonathan Ashworth MP, Labour's Shadow Health Secretary, said:**

"The NHS Constitution isn't just a pledge by politicians, it's a legal guarantee about the standards of care that patients can expect to receive in the English NHS. That includes a guarantee to treatment within 18 weeks, which NHS England have now said they can no longer provide because the Government has denied them the funding they need.

"Government ministers need to urgently clarify they are not breaching the NHS Constitution and must outline the consequences of denying patients their legal right to treatment within 18 weeks. As a first step the Secretary of State must publish his Department's legal advice urgently.

"Earlier this week NHS chiefs announced – without any public consultation or changes to the law – that the NHS will no longer be required to meet the 18 week treatment target because the financial crisis has got so bad. It's utterly unacceptable and a striking admission of how badly the Tories are running the NHS.

"Since Theresa May became Prime Minister standards of care for NHS patients have been in a rapid downward spiral. She might be prepared to ignore NHS staff and the public but she can't just ignore the NHS constitution based on legislation voted upon by Parliament.

"The Government now urgently needs to clarify the legal basis upon which the 18 week right has been jettisoned. Will they be amending the NHS Constitution to remove these rights from patients? Will they be tabling new legislation in Parliament to unpick these

commitments?

Or will they will finally give the health service the funding it so desperately needs to deliver the quality of care to which patients are entitled?"

## **Ends**

### **Note To Editors**

Full text of the letter to Jeremy Hunt from Jonathan Ashworth:

Dear Secretary of State,

I am writing to ask for urgent clarification about the legal basis of the changes to NHS standards announced in the update to NHS England's Five Year Forward View.

Every relevant provider is under a legal duty imposed by part 9 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 to see 92% of patients within 18 weeks of referral by a GP to a consultant . For the last 10 months on the basis of figures provided by the NHS itself this standard has been missed. The update indicates that the NHS accept this standard will further decline.

The update document says:

"Given multiple calls on the constrained NHS funding growth over the next couple of years, elective volumes are likely to expand at a slower rate than implied by a 92% RTT incomplete pathway target."

This is an acceptance the 92% requirement will be missed.

The duty to meet the 92% is absolute and is not subject to any funding constraints.

The absolute nature of this legal duty to meet the 92% is reflected in the NHS constitution.

The Government and NHS England are acting unlawfully in continuing on a course which puts them in breach of their legal duty. The only way to avoid a breach for the future is to change the duty in part 9 by further legislation. That would require the Government to obtain parliamentary approval.

In the absence of any proposal for such legislation, The action described in the update document last Friday is

unlawful. Could you publish your Department's legal advice on whether you are breaching part 9 in what is described in the update.

Will you in any event as a matter of urgency explain the basis on which you say you are entitled to ignore the legal duty in part 9?

Secondly and separately the reference to rationing of NICE approved drugs is a breach of the legal entitlement of patients pursuant to para 7 and 8 of the National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013 ).

The effect of these paragraphs is correctly summarised in the NHS Constitution as:

"You have the right to drugs and treatments that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you."

That entitlement is not subject to financial constraints. Rationing would be a breach of the entitlement.

Could you publish as a matter of urgency the legal advice you have received on whether rationing of NICE approved drugs is lawful in the light of the 2013 regulations, and in any event explain the basis on which you say rationing of NICE approved drugs on cost grounds is not unlawful?

NHS England made clear that the reason for downgrading these guarantees is because of "real pressure from rising demand within a tight funding envelope." The funding squeeze you have imposed on the health service is now jeopardizing legally guaranteed standards of patient care.

Since Theresa May became Prime Minister standards for NHS patients have rapidly fallen. She might be prepared to ignore NHS staff and the public but she can't just ignore the law and the NHS constitution.

The public urgently need to know: will you be bringing forward legislation to amend the law and the NHS Constitution to remove these rights from patients? Or will you finally convince the Treasury to give the health service the funding it so desperately needs to deliver the quality of care to which patients are entitled?

Jonathan Ashworth MP

Shadow Secretary of State for Health

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## [China shuts down 18 illegal live streaming apps](#)

A total of 18 live streaming apps have been closed for disseminating illegal content, the Cyberspace Administration of China (CAC) announced Sunday.

Some app operators were punished for the lack of a mechanism to censor content, and some anchors used the platforms to spread illegal content, dressed in military or police uniforms or were scantily dressed and acted flirtatiously, according to CAC.

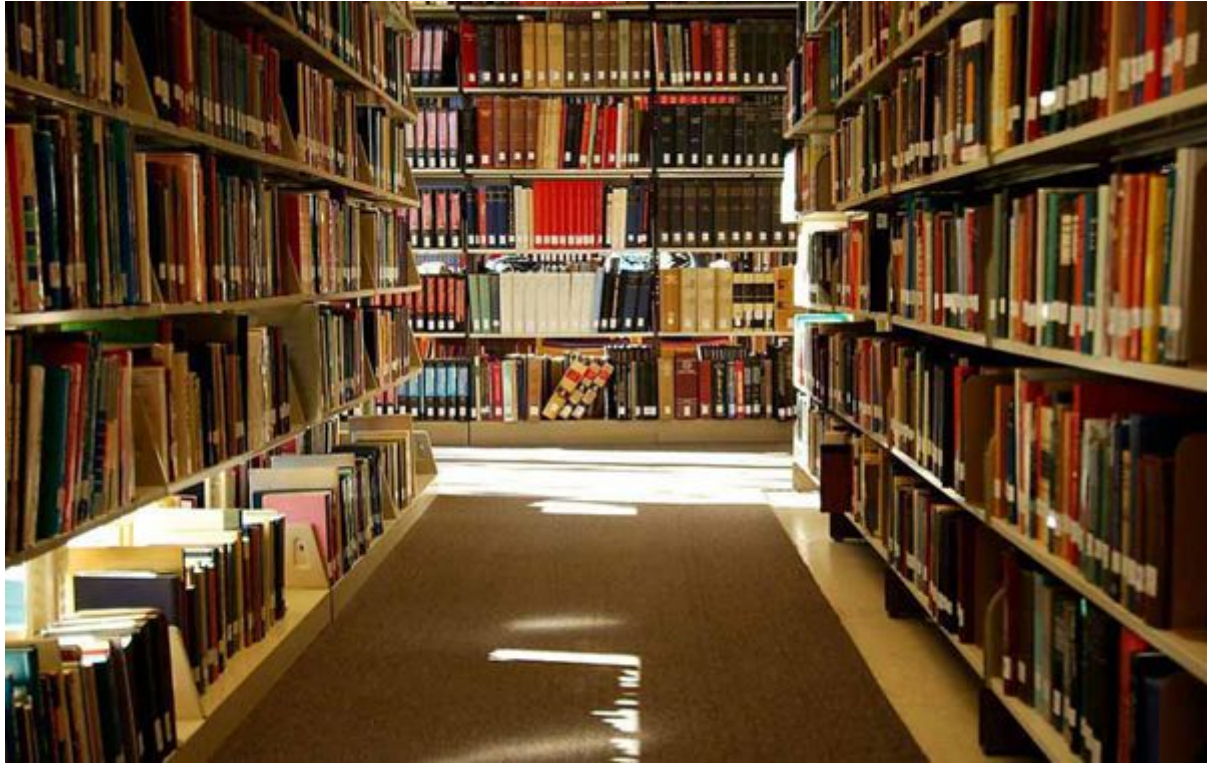
Some anchors publicized their WeChat or QQ accounts during live streaming to induce fans to engage in prostitution.

“The online behavior of the anchors violated relevant Internet information service or live streaming laws and regulations, offended socialist core values, and brought negative impact to the healthy growth of the young and teenagers,” CAC said.

The administration vowed to step up inspection and law enforcement.

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## [New online library platform gaining in popularity](#)



A file photo of a library [Photo: Baidu]

“Book Borrower,” an online library platform, has become popular with about 2,000 books being borrowed every month only one year after it was officially opened, reported Beijing Youth Daily on Sunday.

#### **Only service fees paid, deposits to be returned**

Users can choose the books they like on “Book Borrower” after paying a service fee and a deposit. Deposit will be returned to users after they return the books. Service fees include postage and packaging fees. Users are responsible for sending the books to stipulated places after they are finished reading.

The platform was developed by Chen Dongzan in Harbin, Heilongjiang province, in late 2015. In March 2016, the platform went online on Wechat. On the first day of its operation, Chen gave away bookmarks with QR codes of the shared library outside bookstores and libraries in Harbin, and got his first customer that evening.

After a month, the platform had 38 users, most of whom were locals in Harbin. Currently, the users are mostly office employees and university students with female readers accounting for 64%.

#### **No reading period limit to make it convenient for users**

From Chen Dongzan’s perspective, “Book Borrower” is a platform that is in between buying books and borrowing books from public libraries.

“The cost of buying books is relatively high and placing them at home takes up much space, while borrowing books from public libraries is not time efficient,” said Chen.

Chen says avoiding the shortcomings of buying books and borrowing books from public libraries has become the goal the online library is striving for.

### **Not proper time to talk about making profits**

“Free of charge is why many previous book borrowing websites failed,” said Chen Dongzan.

Different from previous platforms, all the funds related to book borrowing on “Book Borrower” are offered by users. Chen said that there is little pressure for capital for the time being. However, it’s still too early to talk about making profits.

Chen says that the key to a lasting operation is to keep books in a mobile situation where no books will be on bookshelves for a long time.

Chen says he’s grateful that many longtime users were borrowing seven to eight books at a time by the end of 2016, which is a much higher number than before. Users who borrow twenty books at a time are also on the increase.

Chen said the platform is planning to set up storage in user intensive areas to make delivery quicker and cheaper in the future. “To make every family have a bookshelf with 300 books” is the vision and ultimate goal for “Book Borrower.”

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## **China braces for more rail travelers during holiday**



Passengers crowd the Nanchang Railway Station in Nanchang city, Jiangxi province, on Saturday, April 1, 2017. [Photo: Chinanews.com]

China will see a surge of rail travelers during the Tomb-sweeping Day holiday starting Sunday.

China Railway, the national railway operator, expects the number of trips in the country to hit 45.2 million over the four-day travel rush, a 9.5 percent increase year on year.

The travel peak is expected on Sunday when train trips could reach 12.8 million, up 10.1 percent year on year.

The company said it would add more trains to meet demand.

Tomb-sweeping Day, also known as Qingming Festival, is the most important occasion for Chinese to honor their ancestors.

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## [Newslinks for Sunday 2nd April 2017](#)

Brexit 1) What Easter Ministerial holiday? May team's trade tour.





“Mrs May has instructed her top team to spend the Easter break selling Britain abroad as a mecca for inward investment. Chancellor Philip Hammond is being posted to India with a “heavyweight delegation” which includes Bank of England governor Mark Carney. Mr Hammond said he’ll be “banging the drum for British business” and promoting the best of what we have to offer. International Trade Secretary Liam Fox will tour Manila, Kuala Lumpur, Jakarta, Dubai and Oman. He said: “It’s nine months since we voted to leave the EU, and the signs are all positive. The economy is strong, as is inward investment, employment and consumer spending.” – [Sun on Sunday](#)

### **Brexit 2) Gibraltar “lobbied to be named in May’s letter, Foreign Office wanted it in, Downing Street and Dexu wanted it out”**

A minister said: “Gibraltar lobbied very hard to have them specifically mentioned in our letter and it was rejected by Dexu, to the annoyance of the Foreign Office. The Gibraltarian government is feeling very let down. The Spanish have gone behind our backs and got their side of the argument in the EU [draft negotiating guidelines]. They’ve put the issue up in lights and Gibraltar might be pivotal when it wasn’t before. This is an illustration of how one issue can jeopardise the entire unanimous agreement we need to get any deal.” – [Sunday Times \(£\)](#)

### **Brexit 3) Ministers pondered security negotiation gambit**



“Leaked minutes of a Brexit cabinet committee meeting on March 7 show ministers identified the UK’s “very strong hand” on defence as a key advantage in negotiations. Those present said security would be a “defining” issue for the EU and that Britain should not “underplay” its hand as it seeks to secure a favourable free trade deal. Michael Fallon, David Davis, Philip Hammond and Boris Johnson are all understood to have spoken up about the importance of British security to the EU ahead of talks.” – [Sunday Telegraph](#)

- Robertson says military mustn’t be used as a bargaining tool – [Observer](#)

### **Brexit 4) Labour, LibDems, Tory Remainers plan ways of shafting Great Repeal Bill**

“Staff working for MPs from both parties have drawn up a battle plan as Lib

Dem leader Tim Farron threatened to wage legislative warfare against the Government's Great Repeal Bill, described by critics as a "power grab". The meeting last Friday came just days after Remainers hinted they could form a "centrist" party as Jeremy Corbyn dooms Labour to history. Tory MP Anna Soubry, Mr Farron and former Lib Dem chief Nick Clegg are among those said to be considering trying to create a viable force." – [Sunday Express](#)

- Tory Leavers and Remainers will unite to oppose the Great Repeal Bill – Dan Hodges, [Daily Mail](#)

> Yesterday: ToryDiary – [If Britain needs a new party, we'll only find out after Brexit](#)

## **Brexit 5) Paterson backs an end to subsidies for British farming post-Brexit**



"The shock forced a radical shake-up in the country, with sheep farms replaced by deer parks and vineyards. But critics claim it led to widespread economic distress and a sharp rise in suicides...Mr Paterson argued that there were 'clear lessons to be learnt from the policy adopted by New Zealand... which demonstrated that food production can increase when farmers are given the freedom to react to the market'...A source close to Ms Leadsom said yesterday that Ministers were unlikely to follow the New Zealand precedent directly because 'the rug had been pulled away too abruptly', although the way in which subsidies are applied would be looked at closely." – [Mail on Sunday](#)

### Brexit news in brief

- Write-up of the Brexit week – Tim Shipman, [Sunday Times \(£\)](#)
- Swedish MEP says his country will be the next to leave – [Sun on Sunday](#)
- Mervyn King pro-Leave interview – Bryan Appleyard, [Sunday Times \(£\)](#)
- Cabinet member briefs that aim of cutting immigration to tens of thousands is dead – [Sunday Express](#)
- Post-Brexit passport redesign – [Sun on Sunday](#)
- Britain won't pay £60 billion, says Iain Duncan Smith – [Sunday Express](#)
- We are not obliged to pay a penny – John Redwood, [Sunday Express](#)
- Poulter wants NHS staff to have special Brexit passports – [Sun on Sunday](#)
- Martin Selymayr, the Eurocrat determined to punish Britain – [Mail on Sunday](#)
- Joseph Muscat, the Maltese leader determined to punish Britain – [Mail on Sunday](#)
- Two thirds of students want a second referendum – [Independent](#)
- New Trade Department Permanent Secretary "bungled Probation Service

privatisation” – [Mail on Sunday](#)

## Brexit 6) Charlie Elphicke: May must call an election if necessary



“And it’s not just the EU the Prime Minister must face down. She will be assailed by Labour, Lib Dem and SNP MPs who long for things to go wrong. They will always put party before country. For them, nothing her Government does will ever be good enough. Yet the British people know this is a Government that wants Britain and her people to succeed and prosper. A Government that believes Britain’s best days are yet to come. That’s why if MPs fail to back her she shouldn’t hesitate to take it to the country – and win.” – [Sun on Sunday](#)

Brexit comment in brief:

> Today: ToryDiary – [The Brexit negotiation. Don’t believe everything you read in the media. \(Not that you would anyway.\)](#)

### **Leadsom to unveil toxins tax**

“Leadsom’s plan is expected to extend pollution payments to several more cities, including Birmingham, Leeds, Southampton, Nottingham and Derby, which are already planning to impose toxin taxes on older lorries, coaches and taxis from 2019. Under the new proposals this could be extended to diesel cars too. Under the plans, a network of “clean air zones” will be set up, with councils mandated to impose bans or charges on polluting vehicles that enter them. They will be enforced with camera networks similar to those used in London. Punitive taxes on new diesel vehicles are expected to follow in the chancellor’s autumn budget. This will fit with longer-term plans to make all new cars and vans “zero emission” – that is, electric – by 2040 – [Sunday Times \(f\)](#)

## Adam Bolton: Forget UKIP – and Labour as a potential Government. The Liberal Democrats will become the third force in Britain and the real opposition at Westminster



“The latest analysis of council voting patterns by Professor Michael Thrasher ahead of this year’s local elections finds the Lib Dems well up. National equivalent vote share compared with four years ago is Conservatives 31% (+5), Labour 29% (no change), Lib Dems 22% (+9) and Ukip 10% (-12). If the votes are cast that way on May 4 the Lib Dem party will reclaim its place as the third force in English politics from Ukip while Labour will have another poor set of results. The next crucial vote on Britain in the EU will come if and when the May government and Michel Barnier’s EU team agree a Brexit deal. That gives the Lib Dems two years to harry the government on an issue that matters to them profoundly” – [Sunday Times \(f\)](#)

> Today: Andrew Mitchell on Comment – [Lippy, serious, funny – and right about women. Meet my Labour neighbour, Jess Phillips.](#)

### News in Brief

- Airports and nuclear power stations on terror alert as government officials warn of ‘credible’ cyber threat – [Sunday Telegraph](#)
- Terror taskforce set up to tackle prisoner extremism – [Sunday Express](#)
- The Prince of Wales donates to Aid to the Church in Need – [Mail on Sunday](#)
- Harvey Proctor sues “Nick” – [Sunday Times \(f\)](#)
- Tax and benefit changes could hit hard-working families the hardest – [Sun on Sunday](#)
- Study reveals Scotland’s sectarian equality gap – [Scotland on Sunday](#)
- Academics claim online campaigning in general elections is out of control – [Observer](#)
- Karl McCartney says IPSA boss must stand down following leak – [Sun on Sunday](#)
- Amnesty criticises Johnson over mother held in Iran – [Sunday Telegraph](#)
- Bob Dylan finally accepts Nobel Prize – [Independent](#)

[Newslinks April 2017](#)