

Negotiation results of 5 April 2016

## **Policy approach to healthcare, social welfare and regional government reform package**

On the basis of negotiations in the ministerial working group on reforms and preparation work, the government has agreed upon the following policy approaches that will guide the drafting of legislation on (1) the reform relating to the organisation of healthcare and social welfare, (2) the reform relating to freedom of choice and multisource financing, and (3) the regional government reform. A government policy approach concerning tasks to be transferred to the county government administration is attached as a separate document (Appendix 1). The government will make decisions on the contents of the reforms in keeping with these policies when adopting draft government bills to be circulated for comments.

The government stresses that a key aim of the healthcare, social welfare and regional government reform package is reducing the public economy sustainability gap by EUR 3 billion. In line with this goal, healthcare and social welfare expenditure at the beginning of 2030 should be EUR 3 billion less than the baseline of the current forecast prepared by the Ministry of Finance and the Ministry of Social Affairs and Health. Improved cost management should thus be highlighted as a key principle of the reform when drafting and implementing legislation. Successful and skilful change management will be a prerequisite for achieving the targets, and particular attention will be focused on it during reform implementation.

### **1. Funding solutions and the right of counties to levy taxes**

According to the policy agreed upon by the government on 20 October 2015, the primary source of funding for healthcare and social welfare will be central government financing, which will be complemented by income from client fees, income from services provided by the counties for each other following their division of responsibilities, and the counties' other own income. A precondition for implementing a system based on central government financing is that a genuine possibility of making decisions on the operation and finances of the county related to the use and steering of the central government financing will be secured for the county council that represents the residents.

The basis for the drafting of the act on organising healthcare and social welfare services, the counties act, and legislation on financing that will enter into force on 1 January 2019 will be the central government funding model. The requisite constitutional assessment of different funding alternatives will be carried out as part of the drafting. In accordance with the Government Programme, the basic principle of the funding solutions and the legislation related to them is that the total tax rate may not be increased, and increases in the taxation of earned income will be avoided in all income brackets.

The right of the counties to levy taxes is a far-reaching change in the tax system. If introduced, it must be underpinned by adequately broad-based preparation. The government will not be drafting bills aiming to introduce a right of counties to levy taxes during this term. A further study on the feasibility of this right will be launched during the current government term. This further study will evaluate the needs arising from extensive freedom of choice in healthcare and social welfare services and from the simplification of multisource financing, as well as experiences of central government financing and the introduction of freedom of choice gathered once the legislation on organising healthcare and social welfare services, the counties

and the simplification of multisource financing has entered into force on 1 January 2019. In addition, the further study will look at measures needed to safeguard and improve the clarity, simplicity, efficiency and effectiveness of the tax system as well as constitutional matters related to future financing models.

The government will launch a comprehensive review of the legislation on client fees in healthcare and social welfare in spring 2017. The client fees legislation will be reformed to take into account the objectives of healthcare and social welfare service integration and a preventive approach. The client fees system will be developed to support the clients' personal responsibility and the achievement of the cost saving targets of the healthcare and social welfare reform. Avoidance of unreasonable increases in the client fees will be ensured in the reform process and the relevant legislation. The new legislation will contain provisions on a balanced relationship between the fees on one hand, and the services delivered and the client's ability to pay on the other, as well as on reasonableness in integrated healthcare and social welfare services and the way in which the fees will support cost-effective service use by users who have different needs.

Once the healthcare and social welfare reform has entered into force, the funds needed to finance healthcare and social welfare will be collected as state taxes by adjusting the income tax scale of earned income and the parameters of certain income tax allowances (the so-called scale model).

The main principle will be that central government financing for the counties will be allocated as a universal central government transfer, helping to uphold the residents' power to make autonomous decisions on the operation and finances of their county. Separate funding may additionally be allocated to teaching, research and development activities and other national special tasks of healthcare and social welfare.

Legislation on central government transfers to municipalities will be adjusted to ensure that the municipalities' tasks and funding are in balance (funded-mandate principle) and that the municipalities thus are in position to take care of their tasks in accordance with the funded-mandate principle. The contents of the system of central government transfers to counties and municipalities will be decided in connection with the drafting of legislation on the reform of healthcare and social welfare organisation.

## 2. Position of the personnel and transfers of property

The personnel performing healthcare and social welfare tasks in municipalities and joint municipal authorities and support services personnel who mainly work in tasks to be transferred to the counties will become employees of the counties following the principles of transfer of business. The legislation on local government officials, labour legislation and legislation on collective agreements for public servants will be amended to be applicable to the employees and officials of the counties. The counties will join Keva, and the local government pension system will be applied to the officials and employees of the counties. Legislation on KT Local Government Employers will be reformed so that the organisation will also serve as the employer representative of counties in the future. The counties' status in the new employer organisation will be determined by their personnel numbers and economic weight. Corporations owned by the counties may choose whether or not to join the local government pension system and the collective agreements for the municipal sector and counties.

In personnel arrangements, care will be taken to implement good human resources policy. The costs incurred for the arrangements and the harmonisation of pay will also be kept to a minimum. The position of the personnel will be safeguarded in reorganisation processes.

The personnel in public and private healthcare and social welfare organisations will play a key role for achieving the goals of the reform. The government considers it important that organisations representing the personnel and personnel members themselves participate, both at the national and the county level, in the planning and implementation of the healthcare, social welfare and regional government reform package.

The assets and liabilities of statutory joint municipal authorities engaged in activities that will be taken over by the counties as well as movable property associated with such activities will be transferred to the counties as prescribed in the implementing act (limited demerger model). In this model, rather than being transferred, the buildings owned by municipalities will be rented by the counties based on a common rental agreement template. The property arrangements in this model will be implemented without resulting in a deficit in the municipal budgets. The act implementing the healthcare and social welfare reform will contain provisions on how the transfers of property will be carried out and, for example, how municipal cooperation arrangements referred to in the act on restructuring local government and services will be taken into account.

In the course of further preparation, joint national solutions will be sought for developing unused premises that remain the property of the municipalities to ensure that they will not be left as a burden for individual municipalities. As the reform progresses, shared solutions will also be sought for cost-effective management of the burden to municipal economies caused by the repair backlog of the municipalities' buildings.

### 3. Implementation of service integration

As part of the healthcare and social welfare reform package, extensive, client-centered integration of services will take place, which will be a key method for narrowing health and wellbeing gaps and improving the effectiveness of the services in a simple manner and which will also bring cost savings.

The essential aspect of client-centered integration is that the client's needs may be assessed as a whole, and the competence of different healthcare and social welfare professionals, as well as different services and interventions of the sector, may be combined in a flexible and timely manner into a whole that meets the client's needs as cost-effectively as possible.

The goal of the legislation on the healthcare and social welfare reform and its implementation is to meet the following conditions, which are a prerequisite for service integration:

- integration of organisation: a single strong organiser responsible for the service provision structure and its steering, official activities, evaluation of regional impact, cost-effectiveness and quality of healthcare and social welfare services as well as supporting the users' freedom of choice
- integration of financing: all financing goes through the organiser, who has an overall view of the financing (a single budget and single financial management)
- integration of information: in a client/care relationship and the related analysis, information flows between different providers through national registers and fully interoperable information systems
- integration of service chains: care and service packages are organised ensuring that different services and service providers can effortlessly liaise with each

other. A prerequisite for this is agreements concluded under centralised guidance on referrals and the linkage of individual services to the packages

- integration of provision, where services are offered as cost-effective, clear-cut service packages. Integration of provision will take place in a network-based structure that consists of several service providers. It will also be implemented in individual service units.

In the implementation of freedom of choice and the multiple provider model, the creation of preconditions for service integration must be ensured, which will in particular stress the significance of integration of information and functional integration based on the integration of service chains. The legislation and its implementation must provide preconditions for the integration and usability of information, obligations related to information system connectivity and interoperability, practical implementation of the mobility of information and, additionally, practical implementation of integration related to service chains consisting of multiple providers.

#### 4. Securing preconditions for freedom of choice and a model genuinely based on provision by multiple different providers

As the organiser, the county will be responsible for official duties, the overall functioning of the service system, and the realisation of fundamental rights. Public authority will be exercised under liability for acts in office.

The county will produce the necessary healthcare and social welfare services itself or together with other counties, or it may rely on private or third sector services.

According to the government's policy approach of 7 November 2015, legislation on freedom of choice will be formulated that will enable users themselves to make choices between public, private and third sector service providers. Freedom of choice will be implemented in primary level services as a rule and, where applicable, in specialised healthcare and social welfare services. Extensive freedom of choice in keeping with these government policies will significantly promote competition in the provision of healthcare and social welfare services. The possibilities of service providers to enter the market and the choices made by residents concerning services within the scope of the freedom of choice will maintain service provision by multiple providers. The methods by which the freedom of choice can be realised are being investigated by a group of rapporteurs led by Professor Mats Brommels. Once the group has completed its work, the government will evaluate the proposals and formulate policies on the freedom of choice model (Appendix 2, diagram describing the drafting process of the act on organising healthcare and social welfare services and legislation on freedom of choice). The relevant perspectives of European Union law and realisation of fundamental rights will be taken into account in the investigation and legislative drafting.

The counties will ensure that the organisation and provision of services are genuinely separated and performed by different organisations (legal persons). This may be accomplished by using corporate forms on which more detailed provisions will be contained in the counties act and other legislation. In the production of specialised services, incorporation in the form of a company owned by the county would clearly meet the criterion of separate organiser and provider. Incorporation would also create preconditions for integration of provision between services subject to freedom of choice and the obligation of incorporation. Enabling operation as a corporation is justified in order to tap the benefits of flexibility offered by it. Possibilities of using a corporation to perform some official duties (Section 124 of the Constitution) will be provided for when drafting the legislation. Good governance referred to in the Constitution will simultaneously also be safeguarded. Alternative ways of clearly separating organisation and

service provision into different organisations (legal persons) will also be included in the legislation.

According to its policy approach formulated on 7 November 2015, the government sets the diversification of healthcare and social welfare service provision as its goal. Efforts to achieve this goal will be made together with the counties as part of the negotiation procedure between the counties and the central government. Provisions aiming to ensure that private and third sector services will increasingly be available in addition to services provided by the public sector will also be included in the counties act and the act on organising healthcare and social welfare services. The concrete preconditions for a genuine multi-provider model and freedom of choice are already in place in all areas of Finland. The aim of the government is that the future freedom of choice model will support the possibilities of SMEs to operate in the market and the creation of new digital and other innovative service models. In keeping with the principle of equal treatment of the public and the private sector, possibilities to produce integrated healthcare and social welfare services in an effective and cost-effective manner and to develop innovative service models will be ensured for both the counties and the private and third sector.

The foundation for the operation of multiple service providers will be laid by provisions on competitive neutrality, which will secure equitable operating conditions in market-based activity for public and private actors. Principles that are as uniform as possible will apply to private and public service provision. To ensure this, the same legislation will regulate the registration as a provider and oversight of both public and private healthcare and social welfare service provision on as uniform conditions as possible. The act will contain provisions on the duty of a county as the organiser to ensure that services are available everywhere and to see to the effective and cost-effective provision of services. One way of safeguarding availability is the public sector's own service provision in units of a financially and operationally justified size.

When implementing the freedom of choice and a multi-provider model based on public, private and third sector provision, the requirements set by the European Union competition law and the realisation of fundamental rights will be examined and taken into account. For this purpose, it will also be determined to what extent the healthcare and social welfare services are within the scope of the principle of solidarity in EU state aid regulations. In the context of the multi-provider model, the official duties of the public administration concerning the maintenance and development of the healthcare and social welfare system and the realisation of fundamental rights will be investigated, and relevant provisions will be included in the legislation where necessary.

Provisions on the separation of operative and administrative functions as described above will be contained in the counties act and, for the part of healthcare and social welfare services, complementary provisions will be laid down in the act on organising healthcare and social welfare services. The counties act will contain a provision requiring that the county's own service provision will be directed by professional managers who do not participate in decision-making that concerns the task of organising healthcare and social welfare services and other tasks that belong to the county. Consequently, the immediate organisation of the county's own service provision does not have an organ of elected officials. The duty of incorporating market activities will apply to the county's own service provision as stated below in section 5 on the utilisation of the incorporation model. The management responsible for the county's own service provision will not participate in making decisions on the county's task of organising services.

The counties will have an obligation to compare the impact, cost-effectiveness and quality of their own provision with services provided by the private and third sector and other counties. Public and transparent evaluation data on different provision options produced by the National Institute for Health and Welfare as part of the evaluation tasks to be imposed on it in

## MINISTRY OF SOCIAL AFFAIRS AND HEALTH

### MINISTRY OF FINANCE

#### Healthcare, social welfare and regional government reform package

legislation and the complementary statutory analysis data produced by the counties' central procurement unit on the healthcare and social welfare service market will provide the information base that will support the counties in striving for diverse service provision as cost-effectively as possible.

The county will formulate a county strategy, which shall contain its service provision strategy. In the strategy and its implementation, the county must ensure that the provision of healthcare and social welfare services in its area is as diverse as possible and that providers have access to the market. Central government guidance concerning the organisation of healthcare and social welfare services in the counties will contribute to ensuring that the multiple provider model is utilised and that the preconditions for freedom of choice are met. On proposal of the Ministry of Social Affairs and Health's steering unit and based on expert assessments by the National Institute for Health and Welfare, the government may intervene in the counties' service provision strategies and their implementation.

The counties will be encouraged to diversify their service provision. The central government may use various means for facilitating the counties in these efforts. The act on organising healthcare and social welfare services and the counties act will contain a provision imposing on the government the duty to ensure, and on the county the duty to see to, that the private and the third sector provide a certain minimum share of the healthcare and social welfare services. Taking into account the general national targets and the special features of its area, each county must set and reach a minimum target level in this respect. The counties will rely on service provision by the public, private and third sector so that healthcare and social welfare services are organised in an effective, cost-effective and operationally appropriate manner, also giving the residents genuine possibilities for using their freedom of choice. On the basis of this act, the government will determine general strategic targets for private and third sector provision shares. If the service structure of a county is not diverse enough, the government could request from the county a report on the situation and the county's possibilities of rectifying it. The primary means of striving to diversify the service structure will be cooperative negotiations with the county.

The act on organising healthcare and social welfare services and the counties act will also prescribe that the counties at regular intervals organise conceptual tendering processes to seek new solutions, where a certain minimum volume of the activities will be reserved for new solutions developed by the third or the private sector that are innovative or improve cost-effectiveness. This share may be provided by the county itself if the conceptual tendering process has not produced new or otherwise economically and operationally justified solutions.

The county will prepare and publish separate annual accounts and calculations on its own service provision.

Oversight of competitive neutrality in accordance with the competition legislation will be exercised by the Finnish Competition and Consumer Authority. In accordance with a more accurate report to be completed in late spring by the Finnish Competition and Consumer Authority, the government will consider special competition rules that would prevent the creation of oversized clusters and regulate their operation in services that are subject to competition.

Preconditions for combining service integration with a multiple provider model and utilising competition are a network-based operating method, as full as possible integration and mobility of patient and client data in a client relationship as well as a strong organisation function that is separate from the management of provision.

## 5. Utilisation of the incorporation model

The starting point for the provision of healthcare and social welfare services is as level a playing field as possible (competitive neutrality) for public, private and third sector provision in all operations to be deemed as market activity. A precondition for competitive neutrality is that the same principles are applied to the public, private and third sector in service provision. The government aims to use the private and the third sector increasingly in service provision while also safeguarding the role of public sector provision following the principle of competitive neutrality.

Public authorities have their specific tasks in healthcare and social welfare. Public authorities are responsible for the realisation of fundamental rights, including the right to indispensable subsistence and care referred to in Section 19(1) of the Constitution, as well as the right to adequate health and social services as provided in more detail by an act, which are referred to in Section 19(3). Public authorities are responsible for organising and financing the services. They are also responsible for the effectiveness of the healthcare and social welfare service system as a whole and for ensuring that everyone has access to services. Where necessary, public authorities shall also, in the role of a provider, provide those special services that cannot be provided as market-based operations. According to the government's policy approach of 7 November 2015, these services will not be within the scope of the extensive freedom of choice as a rule. Freedom of choice will also be provided in specialised services where applicable.

An obligation of incorporation will be laid down as provided in the European Union state aid legislation. It will apply to all market activities of the county. The ban on cross-subsidies in EU state aid legislation also applies to the county's market activities, which is another justification for incorporation. In practice, this means that services that are normally within the scope of the freedom of choice and that compete with commercial provision must be incorporated. The scope and limits of the incorporation obligation that concerns market activity will be investigated and drafted in connection with the further preparation of the act on organising healthcare and social welfare services and the legislation on freedom of choice, taking the perspectives of EU law into account.

## 6. Division into regions and cooperation between counties

According to the government policy approaches of 7 November 2015, the provisions of the counties act and the act on organising healthcare and social welfare services will instigate the establishment of 18 autonomous regions, or counties, based on the current regional divisions. The highest decision-making body of the county, the county council, will be elected in direct elections. Each county has a responsibility for organising healthcare and social welfare services, which includes the responsibility for financial resources: payments to providers are made through the organiser. The financing for organising healthcare and social welfare services will thus be handled by 18 counties.

Services and procedures requiring a large population base, a large volume of clients, or specialisation, as well as other less common and more expensive services and procedures, will be centralised at either a national or regional level to five university hospitals and seven other hospital units operating on a broad basis around the clock.

The act and the government decrees to be issued by virtue of it will contain provisions on national and regional division of responsibilities where such division and centralisation of services are necessary in order to safeguard the availability and quality of the services and the realisation of the service users' rights in view of the demanding or rare quality of the task, or the large costs incurred for its performance.

For the purposes of cooperation required by the regional and national centralisation of services and other cooperation between counties in publicly provided services, research and development as well as for the planning of services and service networks that extend further than a single county, **five collaborative catchment areas** will be established. There will be a university hospital in each of the five catchment areas. The collaborative catchment areas will be formed along the lines of the existing specific catchment areas under the current Health Care Act, in which adjustments may be made as required. The tasks that belong to the current specific catchment areas will also be performed within the framework of the collaborative catchment areas. Within each collaborative catchment area, an investment plan for a joint service network will be formulated, and the implementation of the division of responsibilities in an area extending beyond a single county will be agreed upon.

The counties that make up a collaborative catchment area will conclude a cooperation agreement for healthcare and social services as prescribed in detail in the act on organising healthcare and social services and a government decree. Each county council of a collaborative catchment area will make the decision on the cooperation agreement for its own part. The cooperation agreement will include the matters laid down in the act and described in more detail in a government decree issued by virtue of the act. In the event that the counties cannot reach an agreement, or if the agreement does not safeguard the realisation of fundamental rights, the government may issue orders on its contents.

The counties act and the act on organising healthcare and social services will contain provisions on an assessment procedure of the counties in case the organisation capacity is at risk or the criteria for a county in economic crisis are met. If the threshold values for the economic crisis procedure are exceeded and, based on an assessment, the situation cannot be rectified or the county is unable to safeguard the realisation of fundamental rights, a process to change the division into counties and amalgamation of counties will be initiated.

#### 7. Tasks of the counties and steering

The government has agreed upon policies on the reconciliation of county government administration and regional state administration, which are attached as a separate document (Appendix 1).

The government notes that strong central government steering in order to safeguard the realisation of fundamental rights and client-centered integration of services will be essential for the organisation of healthcare and social welfare services in the counties and for the information management and ICT services related to these services.

In other respects, the principle of central government steering of the counties is that it is based on agreements and relies on a negotiation procedure with the counties. The counties will be autonomous. The residents and the county council elected by them will have an authentic possibility of making decisions on the finances and operation of the county.

#### 8. Timing of county council elections

The ministerial working group on reforms and drafting has agreed that the parliamentary elections of spring 2017 will not be rescheduled. The method followed to elect the first county councils will be outlined in the spring in the context of decisions on the draft counties act.

#### 9. Separate solution for Helsinki Metropolitan Area



**MINISTRY OF SOCIAL AFFAIRS AND HEALTH**

**MINISTRY OF FINANCE**

**Healthcare, social welfare and regional government reform package**

The Helsinki Metropolitan Area is a population centre whose circumstances and needs differ from those of other areas of the country. Should the cities in this area submit a joint proposal aiming to account for these special features, the government is prepared to consider including a special solution for the Helsinki Metropolitan Area in the act.

**10. Schedule for drafting the legislation on freedom of choice, simplification of multisource financing, and the act on organising healthcare and social welfare services**

The contents of the act on organising healthcare and social welfare services and the counties act as well as freedom of choice and simplification of multisource financing will be coordinated, and government proposals will be drafted as shown in the diagram in Appendix 2.