



Committee and date
Joint Member Board
16th March 2011

Item No

5

Public

NHS HEALTH & SOCIAL CARE BILL 2011

Responsible Officer Valerie Beint

Email: val.beint@shropshire.gov.uk@shropshire.gov.uk

Telephone: 01743 253701

Summary

This report updates the Joint Member Board on some of the key elements of the NHS Health and Social Care Bill published on 19th January 2011. The Bill contains provisions covering five themes:-

- Strengthening commissioning of NHS Services
- Increasing democratic accountability and public voice
- Liberating provision of NHS services
- Strengthening public health services
- Reforming health and care arm's length bodies.

Recommendations

- A. That Members note the content of the Health and Social Care Bill as summarised within this paper.
- B. That Members note that a separate report to this committee makes proposals on the outline Terms of Reference for a Shadow Health & Wellbeing Board.

Report

Introduction

1. The Government published the NHS White Paper for consultation “Equality and Excellence: Liberating the NHS” in July 2010.
2. The Government’s response to the consultation entitled “Liberating the NHS: Legislative Framework and Next Steps” was published on 15th December 2010.
3. The response document reaffirms the Government’s commitment to reform, whilst developing original proposals in the light of the consultation.
4. Looking after the health and wellbeing of communities is one of the primary responsibilities of local government. The Health and Social Care Bill had its first reading on 19th January and represents a major restructuring, not just of health care services, but also of councils’ responsibilities in relation to health improvement and the coordination of health and social care.

5. What the Bill does:

Devolves power and responsibility for the commissioning of NHS Services

- The role of the Secretary of State will change to one of strategic direction setting and holding the NHS to account.
- GPs will get responsibility for commissioning a wide range of healthcare services, with some exceptions. The Bill allows GPs to join together in consortia, and to commission services in the ways that they judge will deliver the best outcomes for patients
- A new National Commissioning Board will support GP consortia. The Commissioning Board will set health outcomes, allocate and account for NHS resources, authorise the establishment of consortia, and have powers of direction over consortia in specified areas and circumstances (such as risk of failure). It will also commission specific services (for example, primary medical services and national specialised services) and will oversee the work of consortia.
- Strategic Health Authorities (SHAs) are to be abolished from April 2012 and Primary Care Trusts (PCTs) from April 2013.
- The Foundation Trust model will be reformed with an aim to support all NHS Trusts to become foundation trusts by 2014.

Creates a new role for Local Authorities in Public Health

- Public Health England (PHE) will be the national public health service.
- Local authorities will be given responsibility for health improvement currently carried out by Primary Care Trusts (PCTs)

- Directors of Public Health (DsPH), jointly appointed by councils and PHE, will have a leading role in discharging local authorities' public health functions.
- Health and Wellbeing Boards (HWB's) will be statutory in every upper tier local authority and will be required to bring together GP consortia, DsPH, children's services, adult social services and others. The HWB's will have a statutory responsibility to develop a 'joint health and wellbeing strategy' that both local authority and NHS commissioners will be required to have regard to.

Sets up new accountability and scrutiny arrangements

- Health Watch England will be established as the national voice of patients and the public. Local Involvement Networks (LINKs) will be replaced by local Health Watch organisations.
- Monitor will be transformed into the economic regulator for health and adult social care services. Along with the Care Quality Commission, Monitor will license providers.
- The National Institute for Health and Clinical Excellence NICE and the Information Centre will be enshrined in primary legislation for the first time to maintain their independence.

The key areas for the Joint Member Board to have regard to are set out below:-

Public Health

6. As a Local Authority Shropshire Council welcome the Bill's intention to give local authorities a leading role in improving, promoting and protecting the health of our community and the recognition of the influence that the breadth of local authority activity can have on public health outcomes. For example, housing, planning, regulation and environmental health.
7. The Government published the White Paper on Public Health "Healthy Lives, Healthy People" on 30th November 2010. The Public Health White Paper is subject to a separate consultation which ends on 31st March 2011.
8. The Government plans to enable the creation of Public Health England, which will take on full responsibilities from 2012, including the formal transfer of functions and powers from the Health Protection Agency (HPA) and the National Treatment Agency for Substance Misuse (NTA).
9. The transfer of local health improvement functions to local government will be from April 2013, and will be accompanied by ringfenced funding to deliver outcomes, the detail of the funding is yet to be announced. It is intended that Local Authority allocations will be published in shadow form in 2012/13. It is vitally important that local authorities are given sufficient financial and human resources to support this enhanced role.

Health and Wellbeing Boards

10. The Government has responded to consultation feedback regarding Health and Wellbeing Boards by putting them on a statutory footing. Health and Wellbeing Boards will be a Committee of the local authority.

11. The core membership of the Health and Wellbeing Board will be as a minimum:

- Local Authority Elected Member or Members
- GP Consortia representative
- HealthWatch (Patient and Public Champions)
- Director of Adult Social Services
- Director of Children's Services
- Director of Public Health

Beyond this core it will be left to the local authority to decide who to invite.

12. As a result of their statutory footing and core membership, Health and Wellbeing Boards will provide a key forum for public accountability of NHS, public health, social care for adult and children and other commissioned services that the Health and Wellbeing Board agrees are directly related to health and wellbeing. Like all authorities' meetings these will generally be in public.

13. The core purpose of the new Health and Wellbeing Boards is to joint up commissioning across the NHS, social care, public health and other relevant services.

14. At the heart of this role is the development of the Joint Strategic Needs Assessment (JSNA). These have been published since 2008 and are seen as the means by which PCTs (and in the future GP Commissioning Consortia) and local authorities describe the future health, care and well-being needs of local populations.

15. The Government has introduced in the Bill a legal obligation on NHS and local authority commissioning to have regard to the JSNA in exercising their relevant commissioning functions. The Government has taken the additional step of specifying that all Health and Wellbeing Board should have to develop a high level "Joint Health and Wellbeing Strategy" (JHWS) that spans the NHS, social care and public health and could potentially consider wider health determinants such as housing or education".

16. Currently, Shropshire Council and Shropshire PCT has a Joint Member Board which consists of councillors from Shropshire Council, non-executive directors of the PCT as well as officers of the Council including the Director of Community Services, the Director of Children's Services and the Director of Public Health from the PCT as well as the Chief Executive. The Joint Member Board which has overseen the local JSNA is well placed to develop and oversee the setting up of a shadow Health & Wellbeing Board and will

consider proposals for the statutory Health and Wellbeing Board in shadow form at this meeting.

GP Commissioning Consortia

17. The Government sees GP Commissioning as building on the key role that GP practices already play in coordinating patient care and acting as advocates for patients.
18. Shropshire PCT, in partnership with the Local Medical Committee, is supporting and enabling the development of a local GP commissioning consortium. A shadow 'Transition Board' will be created as a committee of the PCT Board which will pave the way for commissioning responsibilities to be delegated to local GPs within the current legal framework. This will provide for a two year period of support and development in preparedness for a full transfer of responsibility in 2013.

Overview and Scrutiny

19. In response to the White Paper, Shropshire Council along with many other Local Authorities expressed its concerns that the White Paper proposed the merger of local authorities' scrutiny function into the Health and Wellbeing Board. The Government has recognised that this proposal was flawed. Health and Wellbeing Boards are to be an executive body and therefore cannot scrutinise their own commissioning function.
20. Instead the Bill will extend the Scrutiny powers of Local Authorities to cover all NHS funded services and will give local authorities greater freedom in how these powers are exercised. As a local authority we will have to give consideration as to how these powers are both exercised and executed.

HealthWatch

21. The Government intends to create a national body called HealthWatch England and a local HealthWatch in each Local Authority. Local HealthWatch will retain the existing responsibilities to provide patient and public involvement LINKs (known as CINCH in Shropshire) and to seek views on services which can be fed back into local commissioning, have continued rights to enter and view provider services and comment on changes to local services. Local HealthWatch will work with Patient Participation Groups through which many GP Practices currently engage with their patients. The Bill proposes additional functions for HealthWatch including a role in the NHS complaints advocacy process. Local authorities will have flexibility to commission NHS complaints advocacy services from a choice of provider which could include the Local HealthWatch. Funding for LINKs which is currently build into Local Authorities funding will be enhanced to reflect HealthWatch's responsibilities.
22. HealthWatch England will be set up as an independent arm of the Care Quality Commission with a specific remit to represent at a national level people using health and social care services.

Timescales

23. The second reading of the Bill is on 31st January from where it will proceed through committee stage, third reading and the normal progress to Royal Assent. A timeline attached as Appendix A sets out the various key events as they are currently known.

Member Support

24. In order to support members with this changing environment and extended responsibilities we have engaged with the Improvement and Development arm of the Local Government Group. They will work with a group of members from the Council on key skills and knowledge to enable members to fully contribute to the development of Joint Strategic Needs Assessment and the scrutiny and oversight of commissioning.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Liberating the NHS: Equity & Excellence July 2010.

Liberating the NHS: Legislative framework and next steps December 2010.

Human Rights Act Appraisal

The recommendations contained in this report are compatible with the provisions of the Human Rights act 1998

Environmental Appraisal

N/A

Risk Management Appraisal

N/A

Community / Consultations Appraisal

N/A

Cabinet Member

Simon Jones, Portfolio Holder (Adult Social Care)

Local Member

All

Appendices

Appendix A - Timeline