



Committee and date

Joint Member Board

20 December 2010

10am

Item No

4

Public

IMPLEMENTING THE NHS WHITE PAPER REFORMS – DEVELOPING A TRANSITION HEALTH & WELL-BEING BOARD

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Summary

This report outlines the proposals contained in the NHS White Paper with regard to Health & Wellbeing Boards which are to be established by Local Authorities by April 2012 and makes proposals regarding the transition process.

Recommendation

- A. That Members note the content of the White Paper with regard to Health & Wellbeing Boards.
- B. A report is brought to the next Joint Member Board on the establishment of a shadow or Transition Health & Wellbeing Board, with Terms of Reference and Membership.
- C. That a paper on the anticipated transfer of public health functions, money and staff to the local authority is brought to the next meeting.
- D. That an update on the Government's response to the White Paper consultation also be brought.
- E. That formal approval is given to proceed with the Local Government Improvement and Development (LGID) proposal to support implementation of the NHS White Paper reform proposed in the White Paper.

Report

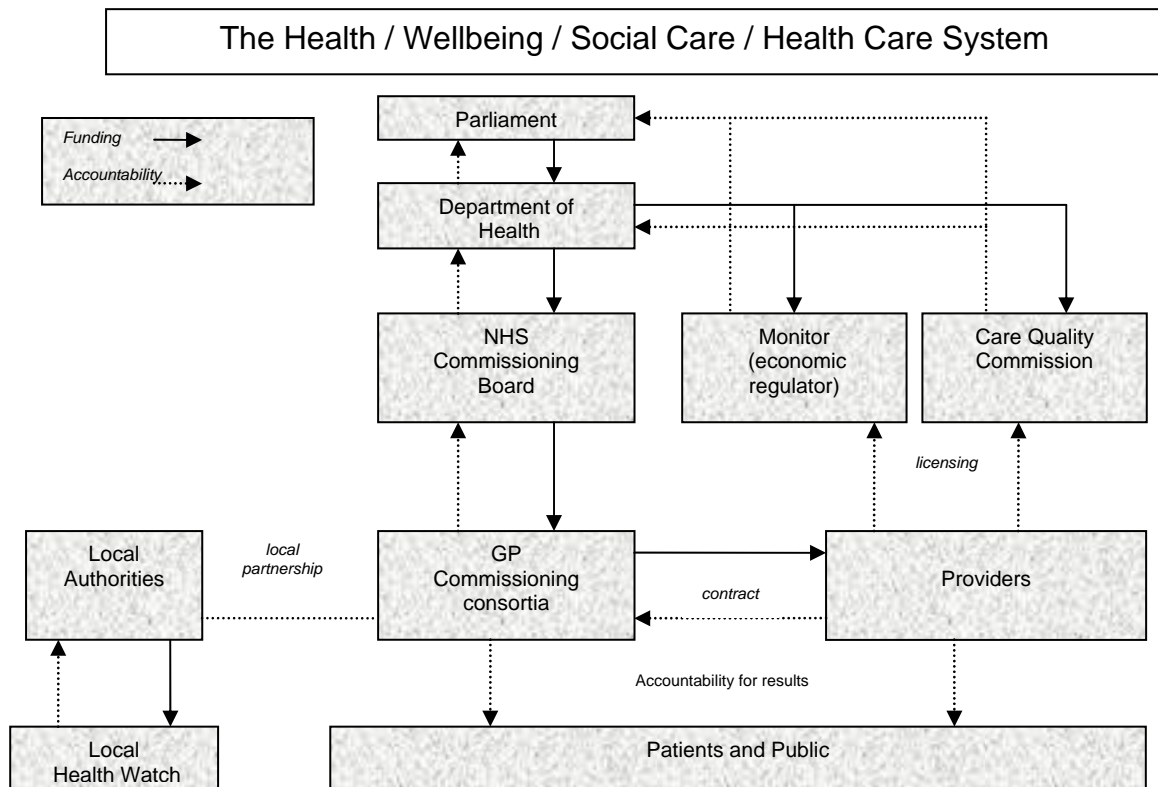
Introduction and Purpose of this Report

1. The NHS White Paper 'Equality and Excellence: Liberating the NHS' was published in July 2010 and was followed up with a number of further guidance

papers detailing aspects of new proposals for consultation which ended on 11 October 2010.

- The broad reconfiguration of new NHS structures and accountabilities are identified in the diagram below:

The Health/Social Care/Health Care System



- One of five supporting guidance papers 'Liberating the NHS: Local Democratic Legitimacy in Health' details proposals for:

- Local authorities taking on health improvement functions
- Local authorities role in promoting service integration
- Local Health Watch organisations acting as independent consumer champions accountable to local authorities
- Health and Wellbeing Boards.

- The Government's purpose is to strengthen local democratic legitimacy by creating a greater role for local government in health and wellbeing.

- This paper:

- Reviews the new local government responsibilities for health
- Reviews recommendations for Health and Wellbeing Boards contained within the guidance
- Proposes a model for a Shropshire Health and Wellbeing Board.

The Local Government Roles

6. The 'Liberating the NHS: Local Democratic Legitimacy in Health' White Paper states that local authorities will have greater responsibility for health in four areas:
 - Leading Joint Strategic Needs Assessment (JSNA) to ensure coherent and co-ordinated commissioning strategies
 - Supporting local voice, and the exercise of patient choice
 - Promoting joined up commissioning of local NHS Services, social care and health improvement and providing a framework for GP consortia to work with other partners.
 - Leading on local health improvement and prevention activity.
7. In delivering these functions, the local authority will have a 'convening role' and 'promote joint commissioning between GP Consortia and Local Authorities'. The guidance states that there will be 'an enhanced role for elected local councillors and local authorities, as a more effective way to boost local democratic engagement'.
8. Directors of Public Health will transfer to Local Government and be jointly appointed by the local authority and a new national Public Health Service. They will bring with them a 'transferred resource' expected to be 4% to 5% of NHS spend currently dedicated to prevention. The DPH will have strategic influence over the wider determinants of health, advising elected members and being part of the senior management in the local authority. (A separate paper on Public Health is on the agenda.)
9. In addition, the government intends 'to develop a powerful and stable local infrastructure in the form of Health Watch, which will act as local consumer champions across health and care. Local Involvement Networks (LINKs) will become the local Health Watch... which will become like a 'citizens advice bureau' for health and social care'. Health Watch will be given additional funding for NHS complaints advocacy services and supporting individuals to exercise choice. (A summary of Health Link can be found in Appendix A.)
10. Local Authorities will commission Health Watch and may intervene in the event of underperformance. Health Watch will also report to Health Watch England which will be established as part of the Care Quality Commission.

Health and Wellbeing Boards

11. The Government will shortly publish a response to the recent consultation on the proposed new local statutory health and well-being boards. The following is based on proposals to date.

Current Position

12. Shropshire previously had a Health and Well-being Board which was part of the Local Strategic Partnership (LSP), and had a membership consisting of the Council, PCT, Hospital Trusts, Fire Service and the Voluntary and Community Sector. This Board oversaw the Local Area Agreement and LSP issues such as the Sustainable Community Strategy covering health and general well-being. The last meeting of the Health and Well-being Board was in September 2010.
13. There is also the Joint Member Board (JMB) consisting of the officers and members of the Council and officers and non-executives of the Primary Care Trust. The terms of reference of the JMB were updated in September 2009 and provide an opportunity for strategic collaboration across health and social care and to review progress in joint areas of work. It is well placed to:
- Oversee formal s.75 pooled budget arrangements (community equipment and adaptations, intermediate care and pooled drug treatment) and enhancing opportunities for the pooling of budgets in other areas (such as Adults with Learning Disabilities);
 - Receive reports on the work programme of the Director of Public Health;
 - Receive regular reports on the work pertaining to developments across the Local Health and Social Care Economy;
 - Optimise opportunities for partnership to ensure services are delivered quicker, of better quality and cheaper.

Proposals

14. Liberating the NHS: Local Democratic Legitimacy in Health, defines the primary aims of local Health and Wellbeing Boards (HWB) as being:
- To promote integration and partnership working between the NHS, social care, public health and other local services, and
 - To improve local democratic accountability.
15. To deliver these aims the HWB would have four main functions:
- To assess the needs of the local population and lead the statutory joint strategic needs assessment
 - To promote integration and partnership across areas, including through promoting joined-up commissioning plans across the NHS, social care and public health
 - To support joint commissioning and pooled budget arrangements, where all parties agree this makes sense
 - To undertake a scrutiny role in relation to major service redesign.
16. There would be a statutory obligation for the local authority and commissioners to participate as members of the HWB and act in partnership on these functions.

Whilst responsibility and accountability for NHS commissioning would rest with the NHS Commissioning Board (at regional level) and GP Consortia (at local level), the HWB would give local authorities influence over commissioning and corresponding influence for NHS Commissioners in relation to health improvement, reducing health inequalities and social care. The HWB could also be a vehicle for taking forward joint commissioning and pooled budgets, where parties agreed this makes most sense.

17. HWB's will operate at upper tier local authority level and will have a lead role in determining strategy and allocation of place-based budgets for health. The HWB will also have an important oversight role in relation to other partnerships and services and can escalate concerns to the Regional NHS Commissioning Board (e.g. in relation to safeguarding). In addition, proposals consulted on include:

- The Director of Public Health is expected to play a critical role.
- The Elected Members of the Local Authority will decide who chairs the Board.
- Overview and Scrutiny functions of the Local Authority would transfer to the HWB and the current Health OSC function would be terminated. (However see also paragraph 22 in this paper.)
- The HWB will have an important role in enabling the Regional NHS Commissioning Board to assure itself that GP Consortia are fulfilling their duties in ways that are responsive to patients and public
- It is anticipated that the HWB would report upwards to the LSP at local level and would replace existing Health Partnership Boards fulfilling that role.

18. The membership of HWB is expected to include:

- Local Authority Elected Members (including the Leader)
- Social Care
- NHS Commissioners (from GP consortia and NHS Commissioning Board for relevant issues)
- GP Consortia representation
- Patient and Public Champions
- Health Watch
- Director of Public Health
- Neighbourhood representatives
- Voluntary Sector
- Local Authority Directors of Adult's and Children's Services.

19. When relevant:

- Other Local Authority Directors as appropriate
- Service providers
- Regional NHS Commissioning Board representatives.
- Other public bodies such as Police and Fire Service

20. In cases of local disputes e.g. over a service reconfiguration, the HWB should adopt the following escalation route:

- Attempt to resolve the problem locally

- Choose to engage external mediation expertise (e.g. a clinical expert, Centre for Public Scrutiny)
- Involve the Reconfiguration Panel to be established
- Refer to the Regional NHS Commissioning Board
- Refer to the Secretary of State.

21. The Secretary of State for Health's involvement will be subject to independent decisions made by regulators such as the Economic Regulator (Monitor) or the Care Quality Commission.

22. The Local Authority itself (independent from the HWB) would retain a responsibility to exercise public overview and scrutiny of the HWB's effectiveness. Local Authorities will need to assure themselves that they have adequate processes in place to do this. (It is likely this will be clarified when the consultation response is published.)

23. Crucially, the guidance as it stands leaves room for local adaptations saying

"If Health and Wellbeing Boards are created, requirements for such a Board will be minimal, with local authorities enjoying freedom and flexibility as to how it would work in practice".

Proposals for a Shropshire Health and Wellbeing Board

24. The proposals for the Health and Well-being Boards in the Health White Paper mark a natural extension of the Joint Member Board and a useful opportunity to reform the Children's Trust.

25. Guidance detailed in section 3 above effectively transforms any new Health and Wellbeing Board into a local (horizontal) accountability mechanism for both NHS care delivery and overall health outcomes delivery across the full partners of the LSP. Vertical accountability of the system for health/care services and outcomes will be to the Regional NHS Commissioning Board.

26. The Health and Wellbeing Board will be managed by Local Government who have the system integration responsibility to pull together the contributions of all stakeholders (social care, children's services, public health service, GP Consortia, primary care federations, other local government services, etc) to deliver improved health and wellbeing.

27. It is further proposed that :

- As before the JSNA will be a key resource for identifying health needs and collating an evidence base for effective interventions, GP commissioning consortia will contribute to and use the JSNA as a basis of their commissioning plans.
- The GP commissioning consortia should develop their commissioning plans in partnership with the Shropshire HWB on the basis of local health needs identified in the JSNA

- The HWB should have oversight of GP commissioning plans, with the NHS Commissioning Board having responsibility for financial ‘sign off’ of local commissioning plans.
- The HWB should publish an annual joint commissioning plan in partnership with GP commissioning consortia to enable transparency and local accountability.
- The existing Local Implementation Teams, Partnership Boards (e.g. Learning Disability Partnership Board, Mental Health Partnership Board, Family Carers Partnership Board etc) should report regularly to the HWB; and new structures should be established for Substance Misuse, and Transitions – from Children to Adults.
- That further consideration should be given to the establishment of the HWB in relation to the Shropshire Partnership including how it influences the priorities and issues being considered by the LSP Boards and the refreshing and updating of the LSP priorities and evidence base through the Joint Strategic Needs Assessment.

28. It is therefore proposed that the Joint Member Board is responsible for the setting up of a shadow Health & Well-being Board alongside the shadow or Transition GP Consortium Board once this has been established.

29. In order to support this development we have contracted with Local Government Improvement and Development (LGID) to provide support with transitional planning and implementation of key areas of the NHS White Paper Reform (proposal attached as Appendix C).

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

Human Rights Act Appraisal

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

Environmental Appraisal

Risk Management Appraisal

Community / Consultations Appraisal

Cabinet Member

Local Member

Appendices

Appendix A – Introducing HealthWatch
 Appendix B – Timeline
 Appendix C – LGID Proposal Letter

Introducing HealthWatch

Subject to any changes following the consultation on the Whitepaper and the passage of the Bill through Parliament, the following sets out the emerging roles of Local HealthWatch and HealthWatch England, and the responsibilities of Local Authorities and GP Consortia.

Local HealthWatch

Local HealthWatch will be the local consumer champion across health and social care.

Existing powers

Local HealthWatch will:

- retain LINKs' existing responsibilities to promote patient and public involvement, and to seek views on services which can be fed back into local commissioning;
- have continued rights to enter and view provider services, and;
- continue to be able to comment on changes to local services.

Like LINKs, they are likely to continue to take an interest in the NHS Constitution.

New role

The White Paper proposes giving local HealthWatch additional functions and funding, for providing complaints advocacy services and for supporting individuals to exercise choice. In particular, they will support people who lack the means or capacity to make choices.

Local HealthWatch will be able to report concerns about the quality of local health and social care services to HealthWatch England. Local HealthWatch will be able to do this independently of their local authority and HealthWatch England will be able recommend that the Care Quality Commission takes action.

A HealthWatch member will also sit on the new Health and Wellbeing boards, the role of which will be to scrutinise local decisions. Therefore the community has a say in local decisions.

HealthWatch England

Under current proposals, 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. This will give people a real influence over the way services are planned and delivered.

An independent part of CQC

CQC is the regulator for health and social care services in England, which aims to ensure better care is provided for everyone.

We are proposing to make HealthWatch England part of CQC because this will build on their existing use of patient experience information to regulate care and makes good economic sense in today's financial climate.

Building on what already exists will enable HealthWatch to become established more quickly, so that it can provide national support and leadership to LINKs, as they evolve into local HealthWatch and beyond.

Shaping policy and delivery

HealthWatch England will use evidence from local HealthWatch and from carrying out its own work to identify concerns and poorly performing services. It will then be able to recommend to CQC that they investigate those services. This will give the public, through HealthWatch, a powerful voice in identifying concerns and ensuring action is taken

There will also be a legal requirement for its views to be taken into account by Secretary of State, the NHS Commissioning Board and Regulators, including CQC. The intention is that HealthWatch England will have to be consulted about any new commissioning guidelines developed for our health and social care services. Thus, they will be able to influence national strategy, policy and operations, as well as input to the registration and regulation of services.

The role of local authorities

Local authorities will have a vital role in ensuring local HealthWatch organisations are successful and will be able to commission HealthWatch to provide services to the local community.

Local authorities will fund the work of local HealthWatch organisations and will contract support to help them carry out their work. Local authorities will have a legal duty to ensure that the activities and support for local HealthWatch organisations are effective and value for money.

In the event of under-performance, the local authority will be able to intervene and, if necessary re-tender the contract to support the work of HealthWatch. Local authorities will also have to ensure that the focus of local HealthWatch activities is representative of the local community.

The consultation document *Local democratic legitimacy in health* explores how Local HealthWatch could input into the process of assessing the needs of the local population and influencing commissioning decisions.

Under the White Paper proposals, local authorities will also assume responsibility for funding NHS complaints advocacy, currently provided by the Independent Complaints Advocacy Service (ICAS). They will be able to commission local HealthWatch or HealthWatch England to provide complaints advocacy, helping people to access and make choices about services, and supporting individuals who want to make a complaint.

Each local authority area will also have a Health and Wellbeing Board, A representative from the local HealthWatch will sit on this board.

Relationship with GP Consortia

GP consortia will have a duty to involve patients and the public in decisions and will need to engage them in both the commissioning and delivery of services. Local HealthWatch will help with this engagement by providing evidence about what local people need and want.

GP Consortia will need to establish constructive relationships with both local HealthWatch and with HealthWatch England.