

CABINET

2 NOVEMBER 2010

REPORT OF THE CABINET MEMBER FOR HEALTH AND ADULT SERVICES

Title: Implications of the Health White Paper “Equity & Excellence: Liberating the NHS” for Barking and Dagenham	For Decision
<p>Summary:</p> <p>The Health White Paper “Equity & Excellence: Liberating the NHS” sets out radical reforms to the NHS which will have significant implications for the providers, commissioners and users (patients) of health services.</p> <p>This report summarises the key implications arising from the Health White Paper and sets out the high level plans, developed with NHS Barking and Dagenham (formerly the Barking and Dagenham Primary Care Trust) to manage these. The Health White Paper proposes important new powers and responsibilities to local authorities along with other significant changes to the way health services are commissioned and held to account. These will require changes in the way the Council operates and raises a considerable range of tasks that need to be undertaken to ensure a smooth transition whilst maximising the resources available locally to support and improve health and wellbeing in Barking and Dagenham. This report:</p> <ul style="list-style-type: none">• identifies the proposals that change the role of local authorities and that impact on their organisation and services, and• outlines the transition plans that are being developed with NHS Barking and Dagenham <p>The strengthening of local democracy by giving local authorities a much greater role in local health improvement and further enhancing the patient’s voice is to be welcomed, though we will need to lobby hard to ensure that sufficient resources accompany the increased roles and responsibilities.</p> <p>The already close working between the Council and the PCT has provided a strong platform and a head start in ensuring that we are well placed to take advantage of these emerging new powers to further improve the health and wellbeing of Barking and Dagenham residents and to maximise the resources available locally to achieve this.</p> <p>Wards Affected: None</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to:</p> <ol style="list-style-type: none">(i) Note the scale of health responsibilities that it will gain under the proposals for NHS reform; and(ii) Agree the outline transition plan summarised in paragraph 2.10 below.	
<p>Reasons:</p> <p>To assist the Council to achieve its Community Priority of “Healthy”.</p>	

Comments of the Chief Financial Officer

The new NHS White Paper sets out, (subject to consultation), proposals for enhanced roles for local authorities in health, specifically with regard to public health and health improvement. Although this is to be welcomed from a service perspective caution is advised as it is proposed that funding of these services will in future become the responsibility of local authorities.

Although it is proposed that budgets will be transferred with new responsibilities from the Department of Health, councils must ensure a full and transparent transfer occurs alongside new service responsibilities, particularly in these times of financial austerity within the public sector.

In accord with how the Council subsume these new functions into its departmental, divisional and management staffing structures, this may lead to additional financing being required, which will be subject to normal approval processes.

Comments of the Legal Partner

The Legal Partner has noted the contents of the report.

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1. Background

- 1.1 The publication in July 2010 of the Department of Health's White Paper, *Equity and excellence: Liberating the NHS*, is the most radical plan for reform of the NHS in a generation. It will continue to be a national service, but fundamental changes in structure are proposed. Importantly for councils, in future they will provide the local democratic accountability and legitimacy in the NHS. Elected councillors and councils will have a new role in ensuring the NHS responds to the needs and views of local communities. The plans to transfer responsibility for NHS commissioning to general practice consortia, to significantly strengthen the role of local authorities in oversight of the system, and to close down primary care trusts represent a bold initiative to change the NHS, root and branch.
- 1.2 The White Paper and supporting documents are subject to consultation which ended in early October. A copy of the joint Council and PCT response is attached at **Appendix 1**. Notwithstanding the outcome of this consultation, organisations across the country, including NHS London and London Councils, are already working on transition plans. The Council has also developed a transition plan with NHS Barking and Dagenham and this report summarises the key streams of work contained within that plan.

2. Proposal

2.1 The proposals for the new role of local authorities in health fall within the following areas:

- Establishment of a statutory **Health and Wellbeing Board** with a remit to join up the commissioning of local NHS services, social care and public health
- Responsibility to ensure the NHS **responds to the needs and views of local communities**
- Lead the **joint strategic needs assessment** to ensure coherent and co-ordinated commissioning strategies
- Lead local **health improvement and prevention** activity
- **Structural changes** to organisations

A more detailed summary of the proposals is attached at **Appendix 2**. The following sets out the key points.

2.2 Health and Wellbeing Board

The primary aim of the health and wellbeing boards would be to promote integration and joint working between the NHS, social care, public health and other local services and to improve democratic accountability.

The proposals are intended to allow local authorities to take a strategic approach and promote integration across health and adult social care, children's services including safeguarding, and the wider local authority agenda such as housing, leisure and so on.

It is also proposed that the new health and wellbeing boards take on the current statutory functions of health overview and scrutiny committees

In summary, the Board's functions would be:

- To assess the health needs of the population and lead the statutory joint strategic needs assessment
- To promote integration and partnership across areas, including through joined up commissioning plans across the NHS, social care and public health
- To support joint commissioning and pooled budget arrangements
- To undertake a scrutiny role in relation to major service redesign

2.3 In operation the Board would:

- Need arrangements to ensure the needs of diverse areas and neighbourhoods are at the core of their work
- Have a lead role in determining the strategy and allocation of any place-based budgets for health

- Have an important role relating to other partnerships, including those relating to vulnerable adults and children's safeguarding
- Replace current health partnerships and work with the local strategic partnership to promote links and connections between the wider needs and aspirations of local neighbourhoods and health and wellbeing
- Need to ensure appropriate arrangements between borough boards and the Mayor

2.4 Board Membership Proposed by the White Paper

- Local elected representatives including the Leader, social care, NHS commissioners, local government and patient champions, Director of Public Health. May invite local representatives of voluntary sector, other relevant public service officials, patient representatives (Healthwatch)
- Elected members would decide on chair of the board
- Would include both representatives from GP consortia and from the NHS Commissioning Board
- As well as strategic role, could agree joint commissioning of specific services eg mental health, or agree allocation and strategy for place-based budgets
- May invite providers into discussions

2.5 Scrutiny Function Proposals

- Statutory functions of Overview and Scrutiny would transfer to Health and Wellbeing Board
- HealthWatch (representing patients) would have a strong formal role in commissioning decisions through a seat on the board
- The Board would have a role in enabling the new national NHS Commissioning Board to assure itself that GP consortia are fulfilling their duties in ways that are responsive to patients and the public
- If disputes cannot be resolved locally, the Health and Wellbeing Board would have the power to refer a commissioning decision to the NHS Commissioning Board and to the Secretary of State for Health.

2.6 **Needs and Views of local communities**

The key to this proposal is that patients are at the heart of the NHS with "*nothing about me, without me*" becoming the new mantra. To achieve this the following key actions are proposed:

- Increasing patient access to information to enable them to make choices about their care, and control over their own health records
- Establishing the right for patients to register with any GP with an open list without restrictions on location (from 2012)
- Offering patients the choice of any willing provider for secondary care
- Carrying out further pilots of personal health budgets

- Creating HealthWatch England and local HealthWatch organisations to be hosted by local authorities (from April 2012). These will replace and strengthen the current Local Improvement Network (LINks) which are independent local groups commissioned by local authorities to give people a stronger voice in how their health and social care services are delivered

2.7 Leadership of Joint Strategic Needs Assessment

The undertaking of joint strategic needs assessments (JSNA) has been a statutory duty on primary care trusts and local authorities since 2007. The guidance assigns the practical responsibility to carry out JSNA to the Directors of Public Health, Adult Social Services and Children's Services.

With the move of the Director of Public Health to the local authority, and the closure of the primary care trust, the JSNA will become the sole responsibility of the local authority, working in partnership through the Health and Wellbeing Board.

2.8 Leadership of Health Improvement and Prevention

It is proposed to transfer the responsibility and funding for local health improvement activity to local authorities. This will give councils the lead in tackling local public health issues such as alcohol misuse, smoking, lack of physical activity and poor diets.

Local authority leadership will be complemented by the creation of national Public Health Service (PHS) reporting to the Secretary of State. This will hold local authorities to account for meeting public health outcomes.

Councils will also have a role in public health service campaigns such as screening and in national health improvement campaigns

Local Directors of Public Health will be jointly appointed by local authorities and the PHS, and will have a ring-fenced budget to deliver national and local priorities.

2.9 Structural changes

The proposed timetable for changes to the NHS structure are:

- April 2011
 - Shadow GP consortia in place
- April 2012
 - Health improvement function transferred to local authorities
 - Public Health Service operational
 - HealthWatch formed
 - NHS Commissioning Board Established
- April 2013
 - GP consortia hold contracts with providers
 - Strategic Health Authorities and Primary Care Trusts abolished

2.10 Outline Transition Plan

Members will recall that the Council and the PCT were already working towards integration of the two organisations, with the formation of a joint Member and Non-

Executive Director Board chaired by the Chair of the PCT and a supporting joint officer group led by the Corporate Director of Adult and Community Services.

With the proposals set out in the White Paper, particularly the abolition of PCTs, the focus of these groups has now switched to managing the transition, with particular emphasis on tasks that will strengthen our ability to lead health improvement locally and ensure that Barking and Dagenham resources remain in the borough.

These key tasks are as follows:

1. **Early transition to Statutory Health and Wellbeing Board** – the existing Health and Wellbeing Board agreed at its meeting on 28 September to go into shadow form from its next meeting (November 23rd) with new membership and Terms of Reference that reflect the White Paper proposals. Once more details are known through the publication of the Health Bill (expected by December) a further report will be brought to Members, which will include any changes that would be required to legislation and the Council's Constitution if it were to transfer scrutiny powers to the new Board.
2. **Early transfer of the health improvement function to the Council** – arrangements are already well advanced to transfer the Director of Public Health, his team and other relevant 'health improvement' PCT officers into a newly created Health and Wellbeing division within the Adult and Community Services Directorate. This transfer is expected to happen by April 2011 at the latest, but may well be agreed earlier than this.
3. **Developing a commissioning support offer to GP consortia** – GPs will be able to choose who supports them to commission health services. The Council is working with the PCT to explore a number of options to ensure that local GPs can have the best support and therefore the most influence over the quality, patient experience and safety of health services for Barking and Dagenham residents.
4. **Developing HealthWatch** – the contract (and funding) for the current Local Improvement Network (LINKs) – commissioned by the Council - runs out in March 2011. The Council, along with London Councils and the Local Government Association is lobbying to ensure that funding is provided to allow the LINKs contract to be extended until the new HealthWatch is in place, and that sufficient funding is provided to enable HealthWatch to fulfill the role set out in the White Paper.
5. **Exploring opportunities to align, share and/or jointly commission services** – this work, begun as part of the previous integration work, will continue to look for opportunities to make the most of both organizations' resources (people, money and buildings) to direct the maximum resource to front line services in these difficult financial times. However, NHS London is requiring significant management cost savings from all London PCTs. This may therefore reduce the opportunities for local integration if realignment or mergers within the NHS take place.
6. **External relationships** – during these critical changes to our health services it is vital that we maintain effective relationships and communications with the key players including: MPs, Members, NEDs, GPs and other clinicians, NHS London, Outer North East London (ONEL) Sector, North East London Foundation Trust and

other NHS bodies, neighbouring Councils and PCTs, the Mayor and the Greater London Authority

7. **Existing services** – with all this change going on we must not lose focus on delivering current services, improving their quality and ensuring their safety and continuing to explore and develop joint arrangements that will improve health and wellbeing outcomes for our residents.

3. **Financial Issues**

The NHS White Paper *Equity and excellence: Liberating the NHS* and the consultation document *Local democratic legitimacy in health* set out proposals for an enhanced role for local authorities in health. Subject to consultation, the Government intends that local authorities will have greater responsibility, including for leading the local Joint Strategic Needs Assessment and for promoting joined-up commissioning of local NHS services, social care and health improvement. This will inevitably mean that Local Authorities will have to put additional resource into creating a Health and Well Being function.

In respect of public health responsibilities, the Department of Health will create a ring-fenced public health budget and, within this, local Directors of Public Health will be responsible for health improvement funds. The allocation formula for those funds will include a new “health premium” designed to promote action to improve population-wide health and reduce health inequalities.

As stated in the NHS White Paper, the target date is to have the new public health service operational by April 2012. However, the Department of Health will not be in a position to make shadow public health allocations until late 2011 for 2012-13, actual allocations will be made late 2012 for 2013-14.

The PCT currently allocates in the region of 5% of its annual budget to public health and health improvement.

4. **Legal Issues**

The Department of Health is currently developing the legal framework for the functions and duties entailed in the creation of the new Public Health Service and new Local authority responsibilities. The Health Bill which will, if enacted, give legal effect to the Government’s reform agenda is due to be introduced later this year.

5. **Other Implications**

The Department for Education has announced its intention to remove much of the bureaucracy around Children’s Trusts in order to free local partnerships to address local issues with innovative solutions. It plans to keep the basic duty to co-operate on local authorities and other local strategic partners, which currently include PCTs and Strategic Health Authorities (following the NHS reforms these duties will be transferred to appropriate bodies) bodies), but to:

- remove the duty to co-operate on schools and colleges via the forthcoming Education Bill;
- remove the requirement for local authorities to set up Children’s Trust Boards and the requirement for those boards to prepare and publish a joint Children and Young People’s Plan, at the first available legislative opportunity; and
- revoke the regulations underpinning the Children and Young People’s Plan and withdraw the statutory guidance on Children’s Trusts, in the autumn.

The Government do not intend to set out centrally how local Children's Trusts and Health and Wellbeing Boards would work together or to be prescriptive about the total membership of the proposed Health and Wellbeing Boards. This will be up to local partners to decide.

5.1 **Risk Management**

There is significant risk in the system with this far reaching change and it is important for the council and their representatives have input into the following immediate priorities:

- (i) Devising options for the new ring-fenced public health budget, including what is held locally and what is retained at the centre
- (ii) Working with colleagues on the key inter-relationships, such as between the PHS and local government, the NHS Commissioning Board and GP commissioning consortia
- (iii) Developing a public health outcomes framework
- (iv) Developing the Public Health White Paper which will set out a new approach to public health.

5.2 **Contractual Issues**

A new NHS Outcomes Framework will provide a clear direction for the NHS. It will include a focused set of national outcome goals determined by the Secretary of State, against which the NHS Commissioning Board would be held to account, alongside overall improvements in the NHS. In turn, the NHS Outcomes Framework would be translated into a commissioning outcomes framework for GP consortia, to create powerful incentives for effective commissioning.

The Secretary of State, through the Public Health Service, will agree with local authorities the local application of national health improvement outcomes. It will be for local authorities to determine how best to secure the outcomes.

5.3 **Staffing Issues**

At this point in time it is unclear the impact on staffing and which staff would transfer from the PCT. Only the Director of Public Health is identified at this time.

5.4 **Customer Impact**

The Government has produced an initial equality impact assessment (EqIA) of the White Paper. It is based on current available evidence and is informed by listening events with a range of health and public health professionals, representative and advocacy groups, as well as staff groups. Further involvement with stakeholders and partners, including patients, service users, carers, the workforce and the general public will take place over the coming months on the detailed policies in the White Paper. Feedback from this involvement will provide further evidence and will inform a full EqIA, which will be produced in the autumn, alongside the response to the consultation on the White Paper.

5.5 **Safeguarding Children**

It is especially important that local organisations work together to safeguard children and young people, adults and protect them from harm. Every organisation must

also be clear about its own responsibilities in this field. PCTs and SHAs have responsibilities for safeguarding set out in statute. The Health Bill proposes that these should pass to GP consortia and the NHS Commissioning Board, adapted as necessary to reflect the wider roles of those bodies. They are also considering the links which would be necessary between Local Safeguarding Children Boards (LSCBs) and the proposed Health and Wellbeing Boards.

5.6 **Health Issues**

The vision in *Equity and excellence: Liberating the NHS* is of shared decision making, a fundamental cultural change putting patients and the public at the heart of the NHS. Choice is fundamentally about the circumstances of treatment and care.

The Government is also committed to ensuring that relevant outcomes for children and young people and adults are reflected appropriately in the Public Health Service Outcomes Framework and the public health White Paper later this year.

6. **Options appraisal**

The current Health & Well-Being Board is dissolved and the membership and terms of reference are reviewed in the context of creating a Shadow Health and Well-being Board in line with the Government's white paper *Equity and excellence: liberating the NHS* published on 12th July 2010

The Council's Cabinet agrees the membership and terms of reference of the Shadow Health and Well-Being Board in line with proposals outlined in the Government's white paper *Equity and excellence: liberating the NHS* published on 12th July 2010 and subsequent consultation documents

The Shadow Health and Well-Being Board will commence from December 2010

7. **Background Papers Used in the Preparation of the Report:**

Department of Health Liberating the NHS: Commissioning for patients – consultation on proposals Department of Health (2010)

Department of Health Liberating the NHS: Local democratic legitimacy in health – a consultation on proposals Department of health (2010)

Department of Health Equity and excellence: liberating the NHS Initial Equalities Impact Assessment (EqIA). Department of Health (2010).

Department of Health Achieving equity and excellence for children. How liberating the NHS will help us meet the needs of children and young people. Department of Health (2010).

8. **List of appendices:**

Appendix 1 Joint consultation response

Appendix 2 Summary of The Health White Paper

Appendix 3 Arm's Length Body Review