

## NHS Whitepaper Liberating the NHS

### Local Democratic Legitimacy in Health

Adults Health and Housing Overview and Scrutiny Commissioning has considered the Local Democratic Legitimacy part of the NHS White paper and gives its comments. The Commission recognises that commissioning decisions will be influenced by the JSNA and taken by GP Consortia. However it seeks clarity on the powers available to local authorities (or health & wellbeing boards) when they feel their views are not reflected in the final Commissioning decision by the GP Consortia and their priorities not properly addressed.

#### ***Q1. Should local HealthWatch have a formal role in seeking patients' views on whether local providers and commissioners of NHS services are taking account of the NHS Constitution?***

It is important to differentiate the role of HealthWatch and the local authority health scrutiny committees as there is potential for duplication and therefore waste of effort as well as confusion in accountability. The responsibility for scrutiny of NHS organisations currently falls to OSC whilst Links carryout consultation with patients and may feed their findings to scrutiny committees. It is important to spell out the role of the HealthWatch and clarify how they will carry this out and who they will report their findings to.

#### ***Q2 Should local HealthWatch take on the wider role outlined in paragraph 17, with responsibility for complaints advocacy and supporting individuals to exercise choice and control?***

Yes. This would improve the current situation where the patients contact PALs as well as the advocacy service for issues related to NHS services. Extending this role would improve customer experience.

#### ***Q3 What needs to be done to enable local authorities to be the most effective commissioners of local HealthWatch?***

Local authorities need to have a clear understanding of the role and remit of HealthWatch so that they can translate this into a commissioning document. This requires clear and early guidance for LA's on the role and function of the HealthWatch.

Governance and support needs to be provided to the existing LINKS to build on their current role and transform into HealthWatch.

Provide clear guidance of what is expected from the HealthWatch and what outcomes it is expected to achieve to enable appropriate support to be provided to the host. This needs to be provided as early as possible otherwise

there is a danger that existing contracts with Hosts and LINKs will be terminated on 31 March 2011 and the LINKs be disbanded. This would delay the creation of HealthWatch.

Local authorities need to be given the scope, specification and timetable for the HealthWatch as this will assist LA's with their commissioning process.

Early confirmation of the level of funding available to local authorities to commission this service would also be helpful.

***Q4 What more, if anything, could and should the Department do to free up the use of flexibilities to support integrated working?***

There are separate structures between health and social care bodies with their own respective lines of accountabilities. . Each organisation has its own budget pressures and its own processes for setting their priorities and until they both see the financial gains of integrated working for their respective organisations they are unlikely to take practical steps to pool resources. In order to maximise the benefits of joint working it may be appropriate to set a legal framework that defines their roles and responsibilities for delivering integrated services.

***Q5 What further freedoms and flexibilities would support and incentivise integrated working?***

Cascading good practice where flexibilities are being used effectively would encourage more organisations to utilise the flexibilities. It also needs strong leadership at the top, from both health and social care bodies to ensure their respective organisations take up the flexibilities and deliver joined up services.

***Q6 Should the responsibility for local authorities to support joint working on health and wellbeing be underpinned by statutory powers?***

Yes, agreed. Statutory responsibility for co-operation/ joint working is more likely to speed up the process and encourage bodies to act earlier. Also the boards need to have "teeth" otherwise they risk becoming talking shops.

***Q7 Do you agree with the proposal to create a statutory health and wellbeing board or should it be left to local authorities to decide how to take forward joint working arrangements?***

Yes, health & wellbeing boards should be established on a statutory basis. The basic form should be the same across England, but with flexibility to tailor the boards at local level.

***Q8 Do you agree that the proposed health and wellbeing board should have the main functions described in paragraph 30?***

We support all the proposals except for the responsibility for health scrutiny. Health scrutiny function needs to stay separate as it would not be appropriate for the same group of people to take decisions on pooling budgets and then be expected to scrutinise them.

***Q9 Is there a need for further support to the proposed health and wellbeing boards in carrying out aspects of these functions, for example information on best practice in undertaking joint strategic needs assessments?***

Further support could help Boards to build on the experience of working in local partnership. Partnerships have the experience of developing the Joint Strategic Needs Assessment

***Q10 If a health and wellbeing board was created, how do you see the proposals fitting with the current duty to cooperate through children's trusts?***

This could become part of the responsibility of the Health and Wellbeing Board.

***Q11 How should local health and wellbeing boards operate where there are arrangements in place to work across local authority areas, for example building on the work done in Greater Manchester or in London with the link to the Mayor?***

N/A

***Q12 Do you agree with our proposals for membership requirements set out in paragraph 38 - 41?***

It will be necessary to differentiate the role of officers and elected members on the Health and Wellbeing Board to avoid potential tensions. There is potential for conflict and tension if there are differences of view between officers and elected members.

***Q13 What support might commissioners and local authorities need to empower them to resolve disputes locally, when they arise?***

There are a number of areas for potential conflict and dispute between GP commissioning consortia and the Wellbeing Board. There needs to be guidance on dispute resolution and clarity on who has the ultimate say.

***Q14 Do you agree that the scrutiny and referral function of the current health OSC should be subsumed within the health and wellbeing board (if boards are created)?***

No. There is a need to retain an independent OSC. The Health and Wellbeing Board would be part of the decision making body and therefore could not scrutinise itself on the decisions it has taken. It would not be credible.

Although the OSC's are unlikely to challenge the Board on many of these decisions we believe it is important to retain a credible and independent scrutiny function.

***Q15 How best can we ensure that arrangements for scrutiny and referral maximise local resolution of disputes and minimise escalation to the national level?***

Overview and scrutiny may only refer issue to the secretary of state where it feels the NHS body has not conducted proper consultation.

It is important to keep overview and scrutiny Committees fully briefed. It is important to provide information as early as possible so that members are aware of the issues before they become public and possibly problematic. Earlier information enables elected members to understand the changes and make appropriate suggestions before final decisions are taken.

***Q16 What arrangements should the local authority put in place to ensure that there is effective scrutiny of the health and wellbeing board's functions? To what extent should this be prescribed?***

LA's need to ensure that a relevant overview and scrutiny committee has the power to scrutinise the health and wellbeing boards. To increase the effectiveness, health and wellbeing boards should be encouraged to publish their forward plans and give opportunity to scrutiny committees to scrutinise its proposals. There should be a duty on health and wellbeing boards to provide information and respond to the scrutiny reports in line with the current process.

***Q17 What action needs to be taken to ensure that no-one is disadvantaged by the proposals, and how do you think they can promote equality of opportunity and outcome for all patients, the public and, where appropriate, staff?***

***Q18 Do you have any other comments on this document?***

Responses to the questions in this consultation document should be sent to [nhswhitepaper@dh.gsi.gov.uk](mailto:nhswhitepaper@dh.gsi.gov.uk) or to the White Paper Team, Room 601, Department of Health, 79 Whitehall, London SW1A 2NS by **11 October 2010**.