REPORT TO CABINET

Title:	**NHS WHITE PAPER: EQUALITY AND EXCELLENCE – LIBERATING THE NHS – RESPONSE TO CONSULTATION**
Date:	30 September 2010
Member Reporting:	Cllr Simon Dudley Cllr Mrs Eileen Quick
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Wards Affected:	ALL

1. SUMMARY

1.1 This report outlines the key changes following publication of the NHS White Paper July 2010 'Equality and Excellence. Liberating the NHS' and sets out the implementation timetable nationally.

1.2 Subsequent to this there have been consultation papers which all authorities and representative organisations are invited to respond to by 11th October 2010.

1.3 The key consultation document setting out the new functions and responsibilities for local authorities is 'Local Democratic Legitimacy in Health' including adults and children's health and social care services. Its aim is to strengthen democratic legitimacy at a local level. Local authorities will promote the joining up of local NHS services, social care and health improvement.

1.4 Officers with the Lead Member**s** have considered responses to the pre-determined questions which are for consideration and agreement.

1.5 This report explains how the overall NHS changes will be taken forward in RBWM with the establishment of a major project sponsored by the Lead Member for Adult & Community Services, Cllr Dudley, with a corporate Programme Board chaired by the Strategic Director of Adult & Community Services. This will scope and consider resource issues for effective delivery of the new statutory requirements, and set out a project plan.

2. RECOMMENDATION:

(1) To note the establishment of a major project sponsored by the Lead Member for Adult & Community Services, Cllr Dudley.

(2) To agree response to the consultation paper on Local Democratic Legitimacy in Health as set out in Appendix 1 questions.

What will be different for residents as a result of this decision?
Improved democratic accountability and influence over NHS Services.

3. SUPPORTING INFORMATION

Background

3.1 New policy paper

The White Paper is being described as the most radical shake up of the NHS since in inception. £80 billion is to be given to doctors to commission directly instead of through PCTs. The country's 35,000 doctors are to form some 500 consortia in order to run the commissioning arm of the NHS.

3.2 What the key changes mean

Key changes are as follows:

- All NHS providers must become Foundation Trusts and have more freedoms.

- NHS provider regulation will be through strengthening the role of monitor on economic regulation and sustainability. On quality and safety the Care Quality Commission role is strengthened. The National Institute for Excellence will have new role in setting standards for social care.

- There will be a transfer of local PCT health improvement work to councils, who will employ the Director of Public Health, appointed jointly with the new Public Health Service.

- Part of the councils' new responsibilities will be leading on joint strategic needs assessments (currently the Directors of Adult Social Care and Children's Services have statutory functions with PCT Director of Public Health).

- Directors of Public Health would be responsible for health-improvement funds "allocated according to relative population health need".

- As part of the scrapping of the current NHS outcomes framework, the Secretary of State will set councils national objectives for improving health outcomes, leaving it for local authorities to determine how best to secure those objectives, including by commissioning services from providers of NHS care.

- The white paper gives councils the lead **role** in coordinating **joint work between** local NHS services, **public health, GP consortia** and social care,

through setting up statutory ‘Health and Wellbeing’ Boards within councils or existing strategic partnerships.

- The Scrutiny function is abolished.

- All of the new functions will replace the current duties of health overview and scrutiny committees.

- It strengthens the voice of patients and public through arrangements led by local authorities. A new national consumer champion ‘HealthWatch England’, will be part of Care Quality Commission. Current local implementation networks with local authorities (LINKS) to become local HealthWatch, to have more powers on complaints and advocacy.

- The White Paper pledges that the new government will set out its “vision for adult social care” by the end of this year, months before the proposed commission on social care funding is due to report.

3.3 **Consultation and Timetable**

All key changes are subject to consultation which ends on 11th October. The timetable for implementation of changes is attached at Appendix 3 and could be subject to change. All changes are subject to statutory legislation changes and guidance. However all health organisations have been told to implement quickly and where possible have shadow arrangements.

3.4 **What is the impact for RBWM?**

3.4.1 **Public Health**

The Secretary of State in speeches to public health sector **and in the White Paper**, sets out vision for public health within a framework of empowerment.

- A new responsibility deal between Government and business built on shared social responsibility and not state regulation.

- A new ring-fenced public health budget.

- A new ‘Health Premium’ to target public health resources towards the areas with the poorest health.

- Clear outcomes and measures to judge progress alongside NHS and social care outcomes.

- An enhanced role for Public Health Directors so they have the resources and authority to improve the health of their communities.

- A new Cabinet Sub-Committee on Public Health, chaired by the Health Secretary, to tackle the drivers of demand on the NHS.

- **The creation of a new public health service with a lead role in public health evidence and analysis.**

3.5 **Action within RBWM**

3.5.1 There are issues for Children's Trust and Partnership Boards that need to be scoped and actioned through these formal arrangements with the Lead Member for Children's Services and Director of Children's Services.

3.5.2 One key issue is whilst the White Paper states each local authority will have a Director of Public Health, the population size and needs of the two Berkshire PCTs has only justified two Directors of Public Health, one for each PCT. East Berkshire PCT comprises three unitary Councils. **The post will be jointly appointed by the local authority and new public health service.**

3.5.3 The PCT Chief Executive has met with all East Berkshire Chief Executive's to explain process and to offer assistance. The Chairperson of the PCT has also met with the Lead Member to discuss the process. They are scoping issues as well and these will be considered through the existing East Berkshire Joint Commissioning Board which has the Directors for Adults and Children's Services and Director of Public Health with responsibility for promoting health improvement and the joint strategic needs assessment, across the three East Berkshire PCT unitaries.

3.5.4 Discussions will therefore need to be taken with other unitaries on how to carry out functions with one Director of Public Health. Currently staff in the small unit have a local focus as well as strategic focus. The budget for health improvement may need to be disaggregated, although some services may be more cost effective if jointly commissioned with one provider.

3.6 What will responsibility for coordination with the NHS and integration of Health and Social Care involve?

3.6.1 The White Paper sets out the functions for local authorities:

3.6.1.1 Each local authority will take on the function of joining up the commissioning of local NHS services, social care and health improvement.

3.6.1.2 Local authorities will therefore be responsible for:

- Promoting integration and partnership working between the NHS, social care, public health and other local services and strategies;
- Leading joint strategic needs assessments, and promoting collaboration on local commissioning plans, including by supporting joint commissioning arrangements where each party so wishes; and
- Building partnership for service changes and priorities. There will be an escalation process to the NHS Commissioning Board and the Secretary of State, which retain accountability for NHS commissioning decisions.

These functions would replace the current statutory functions of Health Overview and Scrutiny Committees.

3.6.1.3 As well as elected members of the local authority, all relevant NHS commissioners will be involved in carrying out these functions, as will the Directors of Public Health, adult social services and children's services. They will all be under duties of partnership. Local HealthWatch representatives will also play a formal role to ensure that feedback from patients and service users is reflected in commissioning plans.

Operation and Membership of Health & Wellbeing Boards

3.6.2 They will lead the statutory joint strategic needs assessment, which will inform the commissioning of health and care services and promote integration and partnership across areas, including through joined up commissioning plans across the NHS, social care and public health. They will support joint commissioning and pooled budget arrangements, where parties agree this makes sense, and will undertake a scrutiny role in relation to major service redesign. One option for doing this is through the creation of statutory health and wellbeing boards within local authorities.

3.6.3 Whilst the consultation paper is not proposing to be prescriptive about the operation or level of boards, it envisages they would sit at upper tier levels. Neighbouring boroughs may choose to have a single board. They would have lead role in determining the strategy and allocation of any place-based budgets for health. If other partnerships, such as local children's safeguarding board had concerns about NHS partners, they could raise it and the Health & Wellbeing Board could escalate to the NHS Commissioning Board (who can be represented on local boards as appropriate).

3.6.4 The paper proposes the boards bring together local elected representations, including the leader, relevant directors of social care and NHS commissioners, local government and patient champions round one table, with the Director of Public Health. Local authority elected members would decide who chaired the Board. The paper recognises the 'novelty of arrangements' bringing together elected members and officials in this way and at Question 12 seeks views on this.

The Lead Member for Children's Services is keen to take the opportunity for the board to have a 'Think Family' approach which would benefit the joining up of family issues. In addition housing, as a key determinant for health improvement should be represented.

3.6.5 Current RBWM Arrangements

The project board will consider options for Cabinet approval following consultation taking account of current arrangements and final DoH guidance. The current overarching framework of the Community Partnership sets out the variety of existing partnerships including the Healthy Ambitions Group with wide officer and partnership representation. The various existing partnerships are listed at Appendix 2.

3.6.6 A key local authority constitutional issue will be the abolition of scrutiny and the establishment of a Health & Wellbeing Board regarded as the key mechanism for

democratic legitimacy which can be formed from existing or new structures. The paper is not prescriptive about this. However the functions are various, cover NHS Services and Children's and Adults Services as well as potentially having a scrutiny role. The latter is proposed to transfer with the abolition of the current Health Scrutiny function. These two functions, one strategic with a focus on delivering to national and local outcomes across partnerships, and the other with a formal scrutinising and holding to account function do not obviously sit together. This concern could form the response to the consultation as set out at Question 14. The project group will set up a sub-group to consider options for Cabinet approval following formal guidance.

3.7 **What will commissioning by GP consortia involve?**

3.7.1 The establishment of GP Commissioning Consortia requires primary legislation by 2012. All are to be implemented by 2013 by when PCT's will be abolished. It is expected 2010/11 will see some in shadow form (building on practise based commissioning). In 2011/12 a comprehensive system of shadow consortia in place and the NHS Commissioning Board established in shadow form.

GP consortia will be held to account by the NHS Commissioning Board. There will be no opt outs by GP's, and no top down guidance but they must have sufficient geographical focus. They must agree and monitor contracts for locally based services.

They are encouraged to commission services jointly with LA's, particularly with regard to mental health and older people. Some services will not be commissioned locally such as dentistry and maternity services and other specialist services.

The GP consortia will have a duty to work in partnership with local authorities, through the Health & Wellbeing Boards. Nationally GP localities have to determine their size and governance arrangements and how to commission services formerly arranged through the PCT.

3.7.2 **Current RBWM position**

The PCT is assisting the current unitaries GP Consortia to determine how to proceed with new requirements. The Director has met with the three locality leads who consider a decision on consortia size will have been made by October. Currently there are three localities in RBWM. GP Consortia do not currently all fit conterminously with council boundaries and there is no requirement to do so.

3.8 **RBWM issues**:

- How will acute services be commissioned? Currently East Berks PCT leads for neighbouring PCT's such as South Bucks.

- Provider Trusts are concerned at prospect of negotiating with plethora of GP consortia.

- A particular local concern given the turnaround position for Heatherwood and Wexham will be how they will be held to account on quality and performance locally. These issues can be discussed with the GP Consortia which will have responsibility once they are established.

3.9 **Putting People First and HealthWatch**

The fundamental objective of the NHS White Paper is to give power to local people and communities. This will be achieved through changing Local Involvement Networks (LINKS) to become a local HealthWatch. This body will champion service users and carers across health and social care. This is strongly emphasised through the NHS White Paper.

3.9.1 The reforms are intended to make the NHS more responsive and transparent providing more information to improve accountability, whilst extending choice and control for patients safety above all else, so that failings such as those in Mid-Staffordshire cannot go undetected. New national outcomes goals will be developed to promote equality and tackle inequalities in healthcare outcomes. Local HealthWatch, representing patients will provide evidence about local communities and their aspirations. They are seen as providing the collective voice of patients and the public locally and nationally through a powerful new consumer champion HealthWatch England.

3.9.2 The Health and Wellbeing Board will have an important role in ensuring concerns are dealt with at the appropriate levels.

3.10 **Putting Patients First**

Local Involvement Networks who will become local HealthWatch currently cover issues of health and social care quality and are a statutory requirement. These were set up 2 years ago with 3 year grant to local authorities and are commissioned buy Adult Social Care. The grant ceases March 2010; in RBWM this is £110,000. There was a requirement to commission a 'host body' to set up and support local LINKS

3.11 **What Will Change?**

3.11.1 The role of local authorities in promoting choice and complaints advocacy will be enhanced through HealthWatch arrangements they commission.

3.11.2 Local support will need resourcing, and the DoH may give a further grant, otherwise a resource pressure will be identified.

3.11.3 The local authority will be responsible to ensure local HealthWatch works effectively. LINKS is currently part of a Berkshire wide contract which has had variable success. Local HealthWatch will feed into the Care Quality Commission (CQC) which will be responsible for the new National HealthWatch, with a key focus on quality and safety. In turn they will provide advice to NHS Commissioning and the Secretary of State. It is envisaged they will be represented on Health and Wellbeing Boards.

3.12 **Developing Strategic and Joint Commissioning**

Joint Commissioning

3.12.1 A fundamental purpose of the health and wellbeing boards is to promote joint commissioning and integration between health and social care. There have been longstanding arrangements between East Berkshire PCT and the three unitaries to promote this, both within each unitary and across the PCT area, including for specific areas West Berkshire PCT and unitaries. For example the commissioning of intermediate care services.

3.12.2 Each unitary has a joint commissioning manager post, part funded by the PCT, with other development posts. In RBWM this amounts to five posts part funded. Each unitary takes a lead on a specific national development, for example, RBWM is leading on a draft dementia commissioning strategy.

Integration of Provision

3.12.3 There have also been longstanding integrated health and social care teams for mental health jointly funded through the PCT but provided through Berkshire Health Care Trust. RBWM is in discussion to formalise these arrangements to provide better governance. Integrated teams for people with learning disabilities were arranged through the PCT provider Community Services arm, but these are in the process of transfer to the Berkshire Health Trust as well.

3.12.4 The new Health & Wellbeing Board will have a role in overseeing the development of these and ensuring they influence GP commissioning intentions.

3.13 The DoH is moving rapidly to transitional arrangements and support to regions will be provided through the current strategic health authorities as there are many complex issues to resolve regarding budgets and levels of responsibility for purchasing primary, secondary and territory NHS services. Support will be provided to local authorities concerning the public health functions following the setting up of the New Public Health Service.

3.14 **Response to Consultation Paper on Local Democratic Legitimacy**

The key issues as set out in the questions are:

- What should be put on a statutory footing?
- How should the guidance ensure consistency but not be over-prescriptive?
- How can local authorities have sufficient influence with the strategic coordinating role with the local NHS?
- How can local disputes with the NHS be resolved better locally?
- How to assure the scrutiny function and effective engagement of local residents through HealthWatch?

3.15 The detailed proposed answers will be set out in Appendix 1.

3.16 **Project Board**

This has met to establish terms of references, the setting up of sub groups and will identify resources needed to take forward the strategic work required to make the changes happen following the legislative changes.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1 Options

	Option	Comments	Financial Implications
1.	Do nothing - consultation	No statutory need to respond to consultation	Revenue - none Capital - none
2.	Respond to consultation	Opportunity to influence national guidance	Revenue - none Capital - none

4.2 Risk assessment

4.2.1 The local authority does not have to respond to the consultations. Other representative bodies will be doing so. However this provides an opportunity to influence new statutory guidance

5. CONSULTATIONS CARRIED OUT

5.1 All relevant organisations are invited by DoH to respond to consultations. The issues will be discussed with key partners regarding implementation to seek views once guidance is issued. Communication will be a key part of the project implementation plan.

6. COMMENTS FROM OVERVIEW AND SCRUTINY PANEL

6.1 To be confirmed.

7. IMPLICATIONS

The following implications have been addressed where indicated below.

The NHS White Paper confirms its commitment to promoting equalities. The consultation document is based on these principles. Any local implementation will ensure arrangements promote equalities and NHS principles.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	✓	N/A	N/A	✓

Background Papers:
Liberating the NHS: Local Democratic Legitimacy in Health
Equality & Excellence: Liberating the NHS

Authorisation:

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