

Cabinet

24 July 2012

NHS Reforms



Report of Corporate Management Team

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Purpose of Report

1. The purpose of this report is to provide an update on recent developments in relation to NHS reforms.
A separate report will be presented to Cabinet on 24th July 2012 which details the significant policy developments in relation to the Public Health transition.

Background

2. Following agreement by both the House of Commons and Lords on the text of the Health and Social Care Bill it received Royal Assent on 27th March 2012. The Bill is now an Act of Parliament and becomes law.

Government key milestones can be found in Appendix 2.

National Policy Developments

3. The NHS Commissioning Board Special Health Authority (NHS CBA) established on 31 October 2011 is responsible for agreeing the method for establishing, authorising and running clinical commissioning groups (CCGs) – which will be new clinically led organisations.

4. Health Secretary Andrew Lansley has set out the Government's strategic objectives for the NHS Commissioning Board Special Health Authority (NHS CBA) and the basis against which the Authority will be held to account for its performance against four strategic objectives, relating to:
 - Transferring power to local organisations
 - Establishing the commissioning landscape
 - Developing specific commissioning and financial management capabilities
 - Developing excellent relationships.
5. The NHS Commissioning Board Special Health Authority (NHS CBA) has published 'Clinical Commissioning Group Authorisation: Draft Guide for Applicants, which is designed to help emerging Clinical Commissioning Groups (CCGs) take on their full statutory responsibilities from April 2013. CCGs are groups of GPs and other health professionals who will commission certain health services for local communities.
6. The NHS Commissioning Board Special Health Authority (NHS CBA) has also produced a Human Resources (HR) Guide to provide practical advice about how Clinical Commissioning Groups can approach the main HR issues as well as a 'Model Constitution Framework for Clinical Commissioning Groups' which brings together the relevant legislation and to provide guidance on those matters that should be included in a constitution.
7. The NHS Commissioning Board Special Health Authority's (NHS CBA) role is to make all the necessary preparations for the successful establishment of the NHS Commissioning Board (NHS CB) in October 2012 before it takes on full statutory responsibilities in April 2013.
8. The NHS Commissioning Board (NHS CB) will ensure the new design of NHS services is fit for purpose and provides clear national standards and accountability. It will take responsibility for NHS services at a national/regional level for example, primary medical, dental and ophthalmic services.
9. From April 2013, the NHS Commissioning Board (NHS CB) takes on its full statutory powers.
10. The Health and Social Care Act 2012 includes provision for responsibility for the new local Medical Examiner service to sit with local authorities (LAs). LAs are already responsible for the coroners' services and registrars, however the new local Medical Examiner service will be a new service and a new responsibility for LA's.

11. On 24th April 2012 Health Secretary Andrew Lansley wrote to the Death Certification National Steering Group members to advise that the full implementation of the proposed new local medical examiner (ME) service has been delayed until April 2014.
12. It is anticipated that when Local Authorities take responsibility for their local Medical Examiner Service in April 2014 that they will work closely with the Coroner in their area. The Council is in discussion with the Coroner in this respect.
13. A public consultation on the death certification reforms, including draft regulations is planned for autumn 2012. A full Impact Assessment and Equality Impact Assessment will accompany the consultation paper.

Regional Developments

NHS Commissioning Board

14. Richard Barker has been appointed as the Regional Director for the North of England NHS Commissioning Board. Recruitment is now taking place for Commissioning Support Services Managing Directors, with an expectation that people will be appointed by early June 2012.
15. The configuration for the NHS Commissioning Board in the North East will be two offices, one in County Durham and Tees Valley and one in Northumberland, Tyne and Wear and Cumbria.

Developments in County Durham

Authorisation of Clinical Commissioning Groups

16. There are two Clinical Commissioning Groups (CCGs) in County Durham (North Durham/ Durham Dales, Easington and Sedgefield). In North Durham CCG Dr Neil O'Brien is the Interim Chief Operating Officer and Dr Kate Bidwell is the Interim Chair/ Clinical Lead. In Durham Dales, Easington and Sedgefield CCG Dr Stewart Findlay is the Interim Chief Operating Officer and Dr Dinah Roy is the Interim Chair/ Clinical Lead.
17. Durham Dales, Easington and Sedgefield Clinical Commissioning Group will apply for authorisation in July, aiming for November authorisation. North Durham will apply in October, aiming for January 2013 authorisation.
18. The authorisation process for CCGs was discussed at the Shadow Health and Wellbeing Board on 30th May 2012. Local Authority involvement in CCG authorisation will include a 360 degree stakeholder survey for CCGs.

19. The Clear and Credible plan for Durham Dales, Easington and Sedgefield Clinical Commissioning Group was presented to the Shadow Health and Wellbeing Board on 30th May.

Local HealthWatch

20. Local HealthWatch will give citizens and communities a stronger voice to influence and challenge how health and social care services are provided within their locality.
21. Updated key milestones in the commissioning of Local HealthWatch in Durham County Council are as follows:
- Develop and finalise a service specification by the end of May 2012.
 - Procurement of Local HealthWatch by December 2012.
 - Establish Local HealthWatch and the decommissioning of LINK by 1st April 2013.
 - The procurement of Local HealthWatch is a Key Decision and a report will be presented to Cabinet on 24th July 2012.

NHS Complaints Advocacy Service

22. The Independent Complaints Advocacy Service (ICAS) is a national service that supports people who wish to make a complaint about their NHS care or treatment.
23. The current ICAS is commissioned and managed by the Department of Health; however the Health and Social Care Act 2012 requires each local authority in England with social care responsibilities to commission effective and efficient NHS Complaints Advocacy service, to be in place by 1st April 2013.
24. Durham County Council is attending sub-regional meetings with local authorities in both the north and the south of the region and market testing has been carried out. Durham County Council will soon enter into a commissioning process for this new service.

Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy

25. The Joint Strategic Needs Assessment 2011 (JSNA) has been produced and presented to the following;
- CYPs Overview and Scrutiny Committee on 13th April.
 - AWH Overview and Scrutiny Committee on 16th April.
 - County Durham Partnership on 26th April.
 - Cabinet on 7th March.
26. The Health and Social Care Act 2012 requires local authorities along with Clinical Commissioning Groups to produce a Joint Health and

Wellbeing Strategy (JHWS) to be discharged by the Shadow Health and Wellbeing Board.

27. The JSNA has informed the emerging strategic objectives in the JHWS, the 'Master-plan' for health and wellbeing, which will inform future commissioning plans for the NHS and social care. The Shadow Health and Wellbeing Board on 30th May 2012 considered the draft strategic objectives in the Strategy.

28. A 'Big Tent' engagement event was hosted by the County Durham Shadow Health and Wellbeing Board on 27th June 2012. This event invited stakeholders to be involved in the development of the Joint Health and Wellbeing Strategy for County Durham.

The event was attended by 154 stakeholders from a wide range of backgrounds including local authority, NHS, voluntary and community sector, service users, carers and patient groups. Stakeholders were invited to provide feedback on nine draft strategic objectives and actions which focused on the following:

- Giving children and young people a better start in life
- Increased life expectancy
- Recovery and re-ablement
- Supporting people with long term conditions
- Health Improvement
- Wider determinants of health
- Mental health and wellbeing
- Protecting vulnerable adults and children from harm
- End of life care

29. A feedback opportunity ran from 27th June to 11th July 2012 on the draft strategic objectives and draft actions and a consultation on the full Joint Health and Wellbeing Strategy will take place in September/October 2012.

30. The Joint Health & Wellbeing Strategy will be agreed by the Shadow Health and Wellbeing Board in November 2012 and a report will be provided to Cabinet in December 2012.

County Durham Shadow Health and Wellbeing Board

31. The Shadow Health and Wellbeing Board continues to meet regularly until the statutory Health and Wellbeing Board is established in April 2013.

32. At its meeting on 18th April 2012 the Shadow Health and Wellbeing Board endorsed the framework for engagement for health and social care. A Toolkit has been produced for commissioners across health and social care to support the engagement framework and related activities.

33. A report on Continuing Healthcare (CHC) was presented to the Shadow Health and Wellbeing Board in April 2012. It was acknowledged that this issue needs to be carefully managed to ensure there is continuity of arrangements in place. A report will be presented to the Shadow Health and Wellbeing Board to confirm the local policy for CHC and free nursing care later in 2012.

34. The future Work Programme for the Shadow Health and Wellbeing Board includes:

September 2012

- To agree winter planning arrangements
- To agree the response to the National Commissioning Board in relation to the authorisation of Clinical Commissioning Groups.
- To receive an update report regarding integrated provider services work stream and work programme.
- To receive a report relating to Health Scrutiny arrangements.

November 2012

- To consider an Operating Framework for Children's and Adult's Safeguarding.
- To consider and provide feedback on first drafts of Clinical Commissioning Plans for 2013-2014.
- To agree the Joint Health and Wellbeing Strategy

January 2013

- To consider information relating to the review of existing Joint Commissioning Strategies.
- To agree the Commissioning Intentions, Priorities and Financial Plans for the NHS and DCC for 2013-2014.

March 2013

- To receive the Director of Public Health report and action plan.
- To agree a report outlining the local public health transition plan, ensuring synchronisation with the North East Public Health transition arrangements.

July 2013

- To review and approve Joint Commissioning Strategies, for example, Learning Disability, Mental Health, Intermediate Care, PDSI, Carers, Older People, CYP.

Health Overview and Scrutiny

35. Two Seminars have been held with Adults, Wellbeing and Health Overview and Scrutiny Committee in relation to NHS Reforms on 25th May and the transfer of Public Health functions to the Local Authority on 26th June.

36. The Health and Social Care Act 2012 amends Section 244 of National Health Service Act 2006 by extending local authorities' formal powers to review and scrutinise all relevant NHS bodies and relevant health service providers.
37. Regulations under this section may authorise a local authority to arrange for its functions under the regulations to be discharged by an overview and scrutiny committee of the authority, including by way of a bespoke Health Scrutiny Committee as currently exists.
38. Important factors to consider are:
- Maintaining existing relationships with NHS Service providers
 - Developing new relationships with other relevant health service providers such as, Dentists, pharmacies, opticians.
 - Developing new relationships with the Health and Wellbeing Board, Clinical Commissioning Groups, the Commissioning Support Unit and Local HealthWatch.
 - Developing a "protocol for working together" between the Adults Wellbeing and Health Overview and Scrutiny Committee and key stakeholders including the Health and Wellbeing Board, Clinical Commissioning Groups, HealthWatch, NHS Partners and the Adults Wellbeing and Health service grouping.
39. A report in relation to the implications of the Health and Social Care Act 2012 on Overview and Scrutiny will be submitted to Adults, Wellbeing and Health Overview and Scrutiny Committee and to Cabinet by the end of 2012. A report will then be presented to Full Council in early 2013. Final Health Scrutiny Regulations are anticipated in December 2012/January 2013.

Health and Care Professions Council

40. On 31st July 2012 the General Social Care Council will be abolished and Social Work staff will need to be registered with the Health and Care Professions Council (HCPC) from 1st August 2012. Progress in implementing these changes within the local authority includes Social Workers renewing their registrations and paying a fee to the HCPC between 1st August and 30th November 2012. An action plan has been developed to manage and monitor staff transfer to the HCPC and discussions are taking place with Trade Unions.

Constitutional Arrangements

41. From April 2013 Health and Wellbeing Boards, subject to regulations, may be established as a committee of the Council. However the Government have made provision within legislation to disapply Health and Wellbeing Boards from becoming a committee of the Council.
42. The Department of Health have undertaken a feedback exercise to gain views from local authorities, Shadow Health and Wellbeing Boards

and partners regarding the regulations asking which elements of current legislation should be retained or disapplied. The feedback exercise requested views on Health and Wellbeing Board arrangements in local areas including;

- Membership;
- Terms of Reference;
- Delegated functions; and
- Lessons to be learned from other activities, such as working as part of Local Strategic Partnerships (LSPs) and Community Safety Partnerships (CSPs).

43. In conjunction with Portfolio Holders feedback has been provided to the Department of Health on the Regulations, seeking to ensure that the good work carried out to date by Shadow Health and Wellbeing Boards are considered in the regulations. It is suggested to the Department of Health that boards should be flexible; to be shaped according to local circumstances and empowered to determine their own arrangements. It is also suggested that Boards could operate on parallel lines to the model of Community Safety Partnerships as this has proved successful.

44. The Department of Health are now working upon this secondary legislation for Health and Wellbeing Boards, once drafted the regulations will be open to a full formal consultation in summer 2012. It is currently expected that the regulations will be in place by the end of 2012 and they will inform local authorities of the formal constitutional arrangements of the Health and Wellbeing Board.

Governance Arrangements

45. The Shadow Health and Wellbeing Board on the 18th April and the County Durham Partnership on 26th April 2012, agreed the future interim governance arrangements in respect of the Shadow Health and Wellbeing Board linked to the wider strategic review of the County Durham Partnership. The new interim governance arrangements include agreed reporting with specific service user groups including the Learning Disabilities Board, Mental Health Board and Partnership Board for Older Adults.

46. The new interim governance arrangements were implemented in June 2012 and will be reviewed again when regulations are issued regarding Health and Wellbeing Boards.

Recommendations

47. Cabinet are recommended to receive this report and:

- Agree that further reports regarding NHS reforms will continue to be provided to Cabinet on a quarterly basis.
- Agree that a report in relation to the “Health and Social Care Act and the implications for Health Overview and Scrutiny” be submitted to Cabinet by the end of 2012.
- Note that a report will be presented to Cabinet on 24th July 2012 in relation to the procurement process for Local HealthWatch.
- Note that a formal consultation on regulations for Health and Wellbeing Boards will be undertaken in summer 2012.

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Background Documents

Health and Social Care Act

Clinical Commissioning Group Authorisation: Draft Guide for Applicants

Death Certification Reforms letter

Building Successful Healthwatch Organisations

Healthwatch Implementation Programme

The Government’s Strategic Objectives for the NHS Commissioning Board

Authority letter

Clinical Commissioning Groups HR Guide

Model Constitution Framework for Clinical Commissioning Groups

Appendix 1 - Implications

Finance – No direct implications

Staffing – No direct implications

Risk – Failing to establish a Health and Wellbeing Board as laid out in the Health and Social Care Act may leave DCC open to legal challenge.

Equality and Diversity / Public Sector Equality Duty – Under provisions in the Health and Social Care Act the Secretary of State, NHS Commissioning Board and Clinical Commissioning Groups will have a duty to reduce health inequalities.

Equality Impact Assessments will be carried out as part of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.

Accommodation – No direct implications

Crime and Disorder – The Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy which will be discharged by a Health and Wellbeing Board will consider the wider determinants of health and well-being within a Local Authority's area, including crime and disorder issues.

Human Rights – No direct implications

Consultation – The Government has consulted with patients and professionals on the NHS Reforms.

A full and formal consultation on regulations for Health and Wellbeing Boards will be undertaken during summer 2012.

Consultation in relation to the Joint Health and Wellbeing Strategy will be undertaken during September and October 2012.

Procurement – No direct implications

Disability Discrimination Act – No direct implications

Legal Implications – The Health and Social Care Bill was introduced to Parliament on 19th January 2011. The Health and Social Care Bill received Royal Assent on 27th March 2012 and is now an Act of Parliament

The Health and Social Care Act states that all upper tier local authorities must establish a Health and Wellbeing Board for their area. Failing to enact a provision will have legal implications for the Council.

Appendix 2 Key Milestones

Date	Key Milestones
<p>July 2012</p>	<p>Begin to abolish and transfer functions of ALBs</p> <p>Abolition of General Social Care Council and transfer to Health Care Professions Council</p> <p>First wave of CCG Authorisation to be made.</p> <p>Full People Transition Policy (PTP) published and establish the PHE staff transfer process.</p>
<p>Summer 2012</p>	<p>Clinical Commissioning Groups to apply to NHS Commissioning Board for establishment and authorisation.</p> <p>CCGs to use their JSNA and JHWS as evidence for Authorisation by July 2012.</p> <p>JSNA statutory guidance published.</p>
<p>September 2012</p>	<p>PCT Clusters/ CCGs to use agreed JHWS as foundation for 2013/14 planning process. Involve partners in HWB in the planning process. Begin developing JSNA for 2014/15.</p> <p>PCT Clusters/ Local Authorities to agree arrangements on public health information requirements and information governance.</p>
<p>October 2012</p>	<p>NHS Commissioning Board established as an independent statutory body, but initially only carries out limited functions - in particular, establishing and authorising clinical commissioning groups</p> <p>Clinical Commissioning Groups enter formal authorisation process</p> <p>NHS Commissioning Board to decide on hosting of commissioning support services.</p> <p>PCT Clusters/ Local Authorities to test arrangements for the delivery of specific public health services and the role of public health in emergency planning, in particular the role of the Director of Public Health and Local Authority based public health. Ensure early draft of legacy and handover of documents.</p> <p>HealthWatch England established</p> <p>Health Education England to be established in Shadow form.</p> <p>Formal assessment of progress with transfer from PCT to Local Authorities.</p> <p>Refresh of Adult Social Care Outcomes Framework.</p> <p>Monitor starts to take on its new regulatory functions</p> <p>Publication of public health Workforce Strategy</p>

	National guidance on emergency preparedness
December 2012	<p>PCT Clusters/ CCGs to begin developing JHWS for 2014/15. Continue to work with partners in HWB to develop commissioning plans.</p> <p>Development of vision and strategy for new public health role (linked to Health and Wellbeing Boards)</p> <p>NHS Outcomes Framework for 2013/14 published.</p> <p>Operating Framework for 2013/14 published.</p> <p>Final public health allocations and national formula expected.</p>
During 2012/13	<p>Local Authorities will commission Local Healthwatch organisations.</p> <p>PCT Clusters/ Local Authorities will agree arrangements for Local Authorities to take on public health functions – date for local determination.</p>
January 2013	<p>PCT Clusters/ Local Authorities will ensure final legacy and handover documents produced.</p> <p>Public Health England business and operational plans published.</p> <p>Completion of initial round of CCG assessments.</p>
February 2013	<p>CCGs to work with partners in Health and Wellbeing Boards to ensure that commissioning plans fully reflect the local priorities in the Joint Health and Wellbeing Strategy.</p>
April 2013	<p>SHAs and PCTs are abolished</p> <p>NHS Commissioning Board takes on its full functions</p> <p>Health Education England takes over SHAs' responsibilities for education and training</p> <p>NHS Trust Development Authority takes over SHA responsibilities for the foundation trust 'pipeline' and for the overall governance of NHS trusts</p> <p>Public Health England established as an executive agency of the Department of Health</p> <p>Full system of clinical commissioning groups is established. The NHS Commissioning Board will only authorise groups to take on their responsibilities when they are ready.</p> <p>GP practices will be members of either an authorised clinical commissioning group, or a 'shadow' commissioning group</p> <p>Clinical commissioning groups that are ready and willing could be authorised to take on full budgetary responsibility. This will be determined through a robust process of authorisation, run by the NHS Commissioning Board, with input from emerging Health and Wellbeing Boards and local clinicians.</p>

	<p>Formal commissioning arrangements implemented between Public Health England, NHSCB, clinical commissioning groups and local authorities</p> <p>Public Health England to allocate ring-fenced budgets, weighted for inequalities, to Local Authorities to commission public health services.</p> <p>Health and Well-Being Boards assume statutory responsibilities</p> <p>Local authorities will have a duty to improve the health of their populations</p> <p>Local Authorities and local HealthWatch will take formal responsibility for commissioning NHS complaints advocacy.</p> <p>Local Public Health budgets allocated</p> <p>Personal budgets for ongoing social care granted</p> <p>Monitor's licensing regime is fully operational</p> <p>Local authorities take responsibility for Directors of Public Health and their functions</p> <p>Launch of Local HealthWatch.</p>
April 2014	<p>The majority of remaining NHS trusts will be authorised as foundation trusts. If any trust is not ready, it will continue to work towards foundation trust status under new management arrangements.</p> <p>Local Medical Examiner service transferred to LAs.</p>
April 2016	<p>Monitor's transitional powers of oversight over foundation trusts will be reviewed</p>