**Report – AWH Overview and Scrutiny Committee**

**9th September 2010**

**Equity and Excellence: Liberating The NHS White Paper**

**Report of Peter Appleton Head of Service – Policy, Planning and Performance Adults, Wellbeing and Health Service.**

## Purpose of the Report

1. The purpose of this report is to provide a report on: 'Equity and Excellence: Liberating the NHS White Paper', which was published by the Department of Health (DoH) on 12th July 2010.

   This report includes an outline of the White Paper and related documents. The approach to be adopted in relation to implementing the White Paper proposals, the initial tasks to be carried out and the legislative timetable to December 2010 is also described.

   A presentation will also be given to AWH Overview and Scrutiny Committee members to support this White Paper report.

## Background

2. The White Paper sets out the vision of an NHS that will give power to front-line clinicians and patients; a service which is simplified and de-layered and free from excessive bureaucratic and political control.

   The Coalition Government have stated that the main focus of the NHS over the next 5 years will be to put patients at the heart of anything that the NHS does, to achieve outcomes that are among the best in the world and to empower clinicians to deliver results based on the needs of patients.

   Within the White Paper the Coalition Government also provided an overview of their proposals for public health. Plans were outlined to transfer the promotion and prevention aspects of public health to local authorities, although this will be subject to separate legislation.

   Further implications for local authorities within the White Paper include tackling health inequalities and continuing the reform of adult social care.

## Summary of the Key Proposals in the White Paper

3. The White Paper 'Equity and Excellence: Liberating the NHS' and four supporting consultation documents were released for consultation in July 2010, by the Department of Health.

   The supporting consultation papers were Transparency in Outcomes- A Framework for the NHS, Commissioning for Patients, Regulating Healthcare Providers and Democratic Legitimacy in Health. A further related document 'Report of the Arms Length Bodies Review', was also released but was not subject to consultation.

   The White Paper sets out the Coalition Government's plans to create a more responsive, patient-centred NHS, with the aim of creating increased autonomy and clear accountability at every level in the NHS. It is intended to focus on the outcome

of patient healthcare, to empower and liberate clinicians to innovate and to improve healthcare services.

The following proposals were outlined within the White Paper:

- Patients will be at the heart of the NHS providing choice about where, and in some cases, how they will be treated.

- Patients will be able to access comprehensive information on many aspects of health, allowing them to rate hospitals and clinicians according to the quality of care they provide.

- Patients will be given a stronger voice through the introduction of a new consumer champion, HealthWatch.

- Patients will benefit from better health outcomes through a focus on continuously improving the clinical outcomes that really matter. The aim is to achieve healthcare outcomes in England that are among the best in the world.

- Current Local Involvement Networks (LINks) to become the local HealthWatch. Local Authorities will be able to commission Healthwatch to provide advocacy and support, helping people access and make choices about services, and supporting individuals who want to make a complaint. These bodies will be funded by and accountable to Local Authorities.

- Performance regimes for health and social care to be replaced with separate frameworks for outcomes and standards that set direction for the NHS, public health and social care.

- Commissioning for many health services to be transferred from PCTs to local consortia of GPs and Strategic Health Authorities and PCTs to be abolished.

- An independent NHS Commissioning Board to be established from 2011. The Board to hold GP Consortia to account for their performance and quality.

- Health and Wellbeing boards to be set up within local authorities to take on the function of joining up the commissioning of local NHS services, social care and health improvement.

- Every NHS trust to become a foundation trust by 2013.

- A Public Health Service to be created to cover public health evidence and analysis. Local Directors of Public Health will be jointly appointed by Local Authorities and the Public Health Service. Responsibility for health improvement functions will pass to Local Authorities.

- The role of the Care Quality Commission to be strengthened to become an effective quality inspectorate across health and social care.

- Local Authorities to be responsible for promoting integration and partnership working between the NHS, social care, public health and other local services.

Many of the changes in the White Paper require primary legislation; secondary legislation may also be needed. The Queens' Speech included a major Health Bill in the legislative programme for this first Parliamentary session. The Coalition Government will introduce this in the autumn.

**Related Consultations**

**4.** In addition to the white paper there are four additional documents for consultation. They are briefly described below.

**4.1 Commissioning for Patients**

One of the major reforms in the White Paper is the transfer of commissioning from PCTs to local consortia of GPs. This change will be statutory, with powers and duties set out in primary and secondary legislation. Under this change, consortia of GP practices, working with other health and care professionals and in partnership with local communities and local authorities will commission the great majority of NHS services for their patients.

This consultation seeks views on a on a number of areas including:

- How GP consortia and the NHS Commissioning Board can best involve patients in improving the quality of health services;
- How GP consortia can work closely with secondary care, community partners and other health and care professionals to design joined-up services that are responsive to patients and the public;
- How the NHS Commissioning Board and GP consortia can best work together to make effective and efficient commissioning decisions;
- How the NHS Commissioning Board can best support consortia and ensure they achieve improvements in outcomes within NHS resources.

**4.2 Democratic Legitimacy in Health.**

This document provides further information on proposals for increasing local democratic legitimacy in health, through a clear and enhanced role for local government. The Government will strengthen the collective voice of patients and the public through arrangements led by Local Authorities, and at national level, through a powerful new consumer champion, HealthWatch, England, located in the Care Quality Commission. Additional proposals state that Health and Wellbeing Boards will be set up within Local Authorities to promote integration and partnership working between the NHS, social care, Public Health and other local services. The role of the Board would include leading the JSNA process, supporting joint commissioning and undertaking a scrutiny role. To avoid duplication it is therefore also proposed that the statutory functions of Overview and Scrutiny transfer to the Health and Wellbeing Board. In summary, it is intended that within this new system, Local Authorities will therefore have an enhanced role in health and greater responsibility is indicated in four areas:

- Leading joint strategic needs assessments (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;
- Leading on local health improvement and prevention activity.

**4.3 Regulating Healthcare Providers**

One of the key features of the NHS White Paper is to free providers from political interference and to establish a stable, transparent regulatory environment. This document provides further information and opportunity to comment on proposals for foundation trusts, licensing and the establishment of Monitor as an independent economic regulator for health and adult social care, through regulating prices and protecting choice and competition. The Care Quality Commission (CQC) will continue to regulate quality.

**4.4 Transparency in Outcomes- A Framework for the NHS**

Chapter 3 of the White Paper explained how, in future, the Secretary of State would hold the NHS to account for improving healthcare outcomes through a new NHS Outcomes Framework.

The consultation document suggests five outcome domains and seeks views on the structure and the core principles that should underpin the development of the framework, as well as the more specific outcome measures that should be used.

This consultation asks for views on:

- The principles that should underpin the framework;
- A proposed structure and approach that could be used to develop the framework; how the proposed framework can support equality across all groups and can help reduce health inequalities;
- How the proposed framework can support the necessary partnership working between public health and social care services needed to deliver the outcomes that matter most to patients and carers;
- Potential outcome indicators, including methods for selection that could be presented in the framework.

**4.5 Report of the arms-length bodies review**

This report, published by the Department of Health on 26th July 2010, set out the Coalition Government's proposals for Arms-Length Bodies in the Health and Social Care sector. These proposals form part of the cross-Government strategy to increase accountability and transparency, and to reduce the number and cost of quangos.

The review assessed whether the work of each of the Department of Health's 18 Arm's Length Bodies' remains essential nationally. It also looked at whether work is being duplicated or could be better carried out by a different body. Subject to Parliamentary approval, organisations which are no longer needed will be removed from the sector, with essential work moved to other bodies.

**5. Consultation**

5.1 The papers on Local Democratic Legitimacy and Commissioning for Patients are of particular relevance to the Council since they address the proposals for the new Health and Wellbeing Board, HealthWatch and the expanded commissioning role.

5.2 The closing date for responding to the Department of Health (DoH) in respect of the White Paper is 5th October 2010.

5.3 A report will be presented to Cabinet on 15th September 2010.

5.4 AWH Portfolio members, Cllrs Nicholls and Huntington will be asked to 'sign off' the consultations for submission to the DoH, prior to 5th October 2010.

**6. Planning in Responding to Proposals in the White Paper**

6.1 <u>NHS Nationally</u>

6.1.1 At a national level NHS Chief Executive Sir David Nicholson has set out plans in the document 'Managing the Transition' to lead the implementation of Liberating the NHS. The paper stresses the need to make the White Paper vision a reality whilst continuing to deliver on quality, finance and performance, and making the required productivity savings of £15-20 million.

6.1.2 An interim bridging function will be established at a national level to ensure that delivery on quality, finance, operations and Quality, Innovation, Productivity and Prevention (QIPP) is controlled.

6.1.3 Sir David outlines 4 key change principles:

a. Subsidarity, which describes the process of decentralisation where appropriate. Where necessary the centre will play an enabling role, but wherever possible, the details of implementation will be determined locally by patients and clinicians.

b. Co-production states that implementation must be designed and decided in partnership with the NHS, local authorities and key stakeholders.

c. Clinical Ownership and Leadership advise that staff must continue to be active participants and leaders throughout the implementation of the White Paper and make the necessary changes.

d. System Alignment refers to aligning the wider NHS system around the same goal, enabling the use of combined leverage for change across the system.

6.1.4 By 10th September the Coalition Government have stated that changes will be made to leadership roles at a regional level to mirror national arrangements. National design principles will also be established to inform further steps on separating commissioning from provision at national and regional levels and a more detailed transition will be agreed.

6.1.5 SHA Chief Executives will be accountable for the overall transition in their regions and will take the lead on and account for initial steps in the transformation process in their regions. Together with the Department of Health leads, they will form part of an integrated national team to oversee the change process.

6.1.6 All decisions regarding timescales for 'Public Health' need to be agreed by the Regional Director of 'Public Health'. Discussions are ongoing.

**6.2 Durham County Council**

6.2.1 It is intended to adopt a phased project approach to implementing the proposals contained within the White Paper. A Project Board has been established, led by the Corporate Director AWH. This work is in parallel with the NHS Project Management approach.

6.2.2 The project is complex and covers a long time period and is being run within the changing landscape of the NHS. It is intended that implementation of the project plan will be phased in accordance with the timescales set by the Coalition Government. Project Workgroups will therefore commence at different stages as appropriate. The first phase of Workgroups are shaded grey on the project structure.

6.2.3 A number of project risks have been identified. These will be assessed in relation to the level of risk and mitigation action planned in accordingly. The recognised risks to date are listed in Appendix 2 of this report.

**7. Key Strategic Tasks to be Implemented**

7.1 If all the proposals within the White Paper are implemented there will be a number of key strategic tasks to be implemented. These will be considered by the project board and reported to Cabinet at staged intervals.

**8 Organisation's Views on the White Paper**

8.1 The views of the Kings Fund, ADASS, the CQC and the LGA Group view regarding the White Paper are attached for information at Appendix 3.

**9 Legislative Programme**

9.1 The Health Bill, Public Health Service White Paper and Social Care Reform Strategy are due to be issued, as follows, along with associated consultations;

| | |
|---|---|
| Autumn 2010 | Health Bill due to be introduced in Parliament |
| Late 2010 | White Paper on Public Health |
| End of 2010 | Vision for adult social care |
| End of 2010 | Information Strategy |
| End of 2010 | Review of data returns |
| July 2011 | Report of independent commission on the funding of care and support |
| October 2011 | White Paper on Social Care Reform |

9.2 The DoH have established a commission on funding of long-term care and support, to report within a year. Reform and consolidation of the laws underpinning adult social care will also be addressed to enable implementation of the planned changes.

9.3 A White Paper will be published in October 2011 containing the outcomes from both the commission on the funding of long-term care and the legislative reform. The DoH expects that legislation will then be introduced in the second session of the current parliament to establish a sustainable legal and financial framework for adult social care.

**10. Key Milestones**

10.1 The White Paper provides a proposed timetable for action, which includes the following key milestones:

| | |
|---|---|
| April 2011 | Shadow NHS Commissioning Board established as a special health authority |
| April 2011 | Arrangements to support shadow health and wellbeing partnerships begin to be put in place |
| 2011/12 | GP Consortia established in shadow form |
| April 2012 | NHS Commissioning Boards fully established |
| April 2012 | New local authority Health and Wellbeing Boards in place |
| April 2012 | HealthWatch established |
| April 2012 | Public Health Service in place |
| April 2012 | NHS Outcomes Framework fully implemented |
| From April 2013 | PCTs are abolished |

**11. Recommendations and reasons**

11.1 AWH Overview and Scrutiny Committee are requested to:

- Note the content of this report.
- Provide any feedback in relation to the consultation response by 16th September 2010.
- Receive future updates in accordance with key milestones.

**Contact:**
**Karen Barrett, Policy and Governance Manager, Tel: 0191 383 6541**
**Deborah Staines, Senior Policy Officer, Tel: 0191 383 6539**

## Appendix 1: Implications

**Finance -** Further clarification is required on the financial impact of implementing the proposals given in the White Paper, particularly around the ring fenced funding for local health improvement functions.

**Staffing -** The additional duties for local authorities noted within the White Paper may have implications for staffing and TUPE.

**Risk –** There are a number of potential risks inherent in the implementation of the proposed NHS White Paper, some of which have been identified in this report. Appropriate mitigating action will be specified within the project Plan, where possible.

**Equality and Diversity -** The White Paper states that the NHS is about fairness for everyone in society, moreover the NHS Commissioning Board will have an explicit duty to address inequalities in outcomes from healthcare services.

**Accommodation -** The Director of Public Health may require accommodation. Current accommodation requirements may change according to the required changes in service and subsequent staff requirements.

**Crime and disorder – None**

**Sustainability – None**

**Human rights -** The vision for the NHS stated in the White Paper adopts the coalition government's central tenants of freedom, fairness and responsibility.

**Localities and Rurality -** The White Paper states that Local Authorities will have the power to promote local wellbeing through the establishment of 'Health and Wellbeing Boards'.

**Young people -** The proposals detailed in the White Paper extend to all age groups.

**Consultation -** Extensive consultation is already underway on the implementation of the proposals set out within the White Paper.

**Health -** The White Paper sets out the coalition government's proposals for health and social care reform.

**Personalisation -** The White Paper states that patient choice and control are at the heart of the NHS, furthermore, one of the responsibilities of the NHS Commissioning Board will be to promote personalisation and extend patient choice, including personal health budgets.

**Appendix 2**

## White Paper Project Risks

The reforms in the White Paper are far reaching and very ambitious. It is essential that DCC and the local NHS take a proactive stance to address the changes required since there are an inevitable number of risks involved. These include:

- Financial risk of undertaking a radical reorganisation at a time of unprecedented financial pressure.
- The restructuring will be costly in the short and medium term. No information has been provided in relation to additional funding to carry this out.
- The transitional period will take place at a time of significant reductions in management capacity in PCTs. Performance and robust financial management need to be assured during this time.
- The pace of change indicated in the White Paper presents risks to local authorities in terms of informed decision making if there is not sufficient time to analyse the impact of the reforms.
- Local Authorities will have to begin building relationships with GPs in relation to Commissioning where they currently do not exist or may be weak.
- GPs will now need to be involved in the JSNA development, but may not have the staff capacity or experience to do so.
- If GPs are not supportive of integrated teams this could have a significant impact on the proposals for increased joint working between health and social care.
- Boundaries may not be co-terminous and the number of GP consortia is unclear.
- The future of health scrutiny is ambiguous.
- Further detail is awaited in relation to Specialist Commissioning eg. Learning Disability and Children and Adolescent Mental Health Services (CaMHs) as well as practical arrangements for jointly funding packages of care.
- DCC/NHS Integrated Services such as Mental Health, Older People and Learning Disabilities may be prone to change as commissioning arrangements are subjected to radical transformation.
- Although there is currently a robust joint commissioning process within AWH, this will need to be reviewed to accommodate the new GP Consortia arrangements.
- The role of primary and community health and safeguarding arrangements for children's & adults services will need to be considered.
- Engaging in transition planning and continuity of existing joint planning arrangements may be difficult given that continuity within the PCT could become more difficult as management cost savings are introduced.
- There is a risk of a lack of GP engagement in established joint working.
- There are issues in relation to the provision of continuing health care (CHC) and funded nursing care (FNC).

The identification of risks will continue as further White Paper related documentation is published by the Coalition Government. They will be included in the White Paper project plan along with specified mitigation actions.

## Appendix 3: Organisation's views on the White Paper

**The Kings Fund**
The Kings Fund believes that the impact of the reforms will depend critically on how effectively they are implemented, advising that giving GPs responsibility for commissioning care and managing NHS budgets should result in services being more closely aligned with patients' needs. The Kings Fund states however, that while some GPs will seize this opportunity, many others may be reluctant to come forward and lack the skills needed.

The Kings Fund believes that the focus must be on delivering the best outcomes for patients, providing the most equitable and efficient care and, importantly, ensuring that data is available to measure these outcomes. The Kings Fund support the proposals to strengthen the links between the NHS and local authorities and give councils an enhanced role in improving public health and the emphasis on linking health and social care budgets.

**ADASS**
ADASS will judge the White Paper proposals on their ability to deliver the key priorities of building personalisation and choice and control for individuals; supporting collaborative working with communities and places; delivering improved outcomes for citizens and promoting integration.

Although the White Paper sets out a new vision, more is needed to describe a coherent view of the future for adult social care. ADASS believe it will be critically important to ensure that the changes being proposed don't lead to a fragmentation of the ways in which public money is used to improve outcomes.

**The Care Quality Commission (CQC)**
CQC has stated that under the White Paper proposals, the current risk-based regulatory regime will remain largely unchanged. However, the white paper does set out a number of important changes for CQC, namely:

- HealthWatch England will be established as a new independent consumer champion within CQC;
- Providers will have a joint license overseen by both Monitor and CQC;
- The NHS Board will take over assessment of commissioning.

In relation to 'HealthWatch', the CQC believe that anything that gives people more say in how care services are monitored is a good thing, stating that 'HealthWatch' will formalise and strengthen collaboration which already exists between the CQC and local groups.

CQC believe there is enormous potential to share information and get local people even more involved in inspections and assessments. However, the CQC want to be clear that HealthWatch should be a separate arm of the regulator, noting that it must be close enough to the CQC to influence regulation and share information, but retain enough independence to be a strong voice, constantly challenging on behalf of local people.

**LGA Group View:**
The Local Government Group is considering the White Paper through five key challenges:
1. **Do the proposals build on existing experience?** Deciding what is spent locally on health services needs to build on the innovative practice that already exists. In many areas, councils, PCTs and health practitioner-based commissioning consortia (including GPs, nurses, specialists and pharmacists) are already working together to

improve services, efficiency and outcomes. We can use these areas as test beds for new arrangements before they are rolled out nationally.

2. **Do they support an area-based budgeting approach?** The LG Group has developed an open and comprehensive offer to Government to help them achieve efficiency savings by adopting a place-based approach to deciding how public money is spent. Health resources will need to be included in this approach, in order to join up health and social care, and to invest in preventative and early interventions in order to reduce the need for health and social care.

3. **Do they promote a person-centred approach?** The proposals should support a person-centred approach to services, based on the needs and expectations of the individual rather than organisational considerations or convenience.

4. **Do they ensure accountability to local communities?** The proposals must include clear and transparent accountability arrangements to local communities, which build on existing accountability rather than creating new structures.

5. **Do they ensure that public resources are directed to the areas of greatest need?** In particular, they should address inequalities in health. We know that inequalities in health are, largely, avoidable and cost taxpayers many millions of pounds each year in spending on health and social care and loss of tax revenue through long-term ill health.

**LG Group view** – Local Government has a central role to play in promoting public health and health improvement and we welcome the Government's recognition that councils are the most appropriate local bodies to coordinate and lead on health improvement. We also support the proposal to establish "health and wellbeing boards" in the knowledge that many councils and local partnerships already have very similar structures to improve co-ordination and collaboration on health improvement and addressing health inequalities.
We are pleased the Government recognises that councils will require additional resources to undertake the public health role. However, the imposition of a ring-fence is completely at odds with the place-based approach advocated by the Local Government Group. Mainstream services such as housing, early years support, transport, leisure and recreation and social care make a far more significant contribution to public health and health improvement than the marginal resource in the ring-fence.

**Government must trust local councils to direct resources as they see fit and remove the ring-fence.**
With regard to the proposal to remove health oversight and scrutiny powers from councils, the LG Group believes that HOSCs have made a real difference in championing the public interest and challenging health commissioners and providers to deliver better health services. The scrutiny of health services must be transparent and have a strong element of democratically accountable oversight, independent of the health service, in order to ensure that it is responsive to the local public's needs.

**LGA Group view on Health Watch** -We welcome the emphasis on greater public engagement at all levels of decision-making within the health service. However, we are concerned that Local Health Watch will carry the weight of responsibility in the public's eyes. The current system has had patchy success in putting patients and service users at the heart of commissioning plans and we will need to learn from best practice to improve effectiveness.

Local decision making on public health must play a strong role in the delivery of any national public health service. The statutory responsibility to support public and patient involvement in health spending must go hand-in-hand with a radical reform of

the way budgets are spent towards a system of place-based budgeting. It is also important that this includes an end to the ring-fencing of budgets in order to allow for the flexible provision of public services that are responsive to local needs.

The proposals in the white paper in general and the specific proposals in the consultation on local democratic legitimacy are part of the coalition government's emphasis on "localism" which it defines as "pushing power away from Whitehall out to those who know best what will work in their communities". The proposals are also intended to strengthen the role of patients and the public in shaping health services and to support increased integration between health and social care and between health and other council responsibilities, such as housing and environmental health.