

## **Meeting of the Cabinet – 14<sup>th</sup> March 2012**

### **Report of Chief Executive**

#### **The Health and Social Care Bill and its Implications for Dudley MBC**

##### **Purpose of Report**

1. To update the Cabinet on proposed changes to the NHS and Public Health systems set out in the 'Equity and Excellence' White Paper and the implications of these for Dudley MBC.

##### **Background**

2. *Equity and Excellence: Liberating the NHS*, the Coalition Government's White Paper, was published on 12 July 2010. It states three key principles:
  - patients at the centre of the NHS
  - changing the emphasis to clinical outcomes
  - empowering health professionals, in particular GPs.
3. The proposals in the paper are being taken through to primary legislation via the Health and Social Care Bill (the Bill), currently before Parliament.
4. Currently, apart from specialised services, the majority of healthcare services, including primary care services, are commissioned by the local Primary Care Trust. Primary Care Trusts also lead on local public health and health improvement services.
5. By April 2013 it is proposed establishing an Independent NHS Commissioning Board, Clinical Commissioning Groups (CCGs) and new Local Authority Health and Wellbeing Boards, as well as developing Monitor as an economic regulator. The new commissioning system is expected to be in place by April 2013 by which time Strategic Health Authorities and Primary Care Trusts along with the Health Protection Agency, General Social Care Council and National Treatment Agency for Substance Misuse will be abolished. Their responsibilities will be transferred to other bodies, including:
  - Clinical Commissioning Groups
  - NHS Commissioning Board
  - National Public Health England (with a local Director of Public Health (DPH) jointly appointed with the Local Authority with a ring-fenced 'Public Health budget')
  - Local Authorities with new responsibilities for population health and health

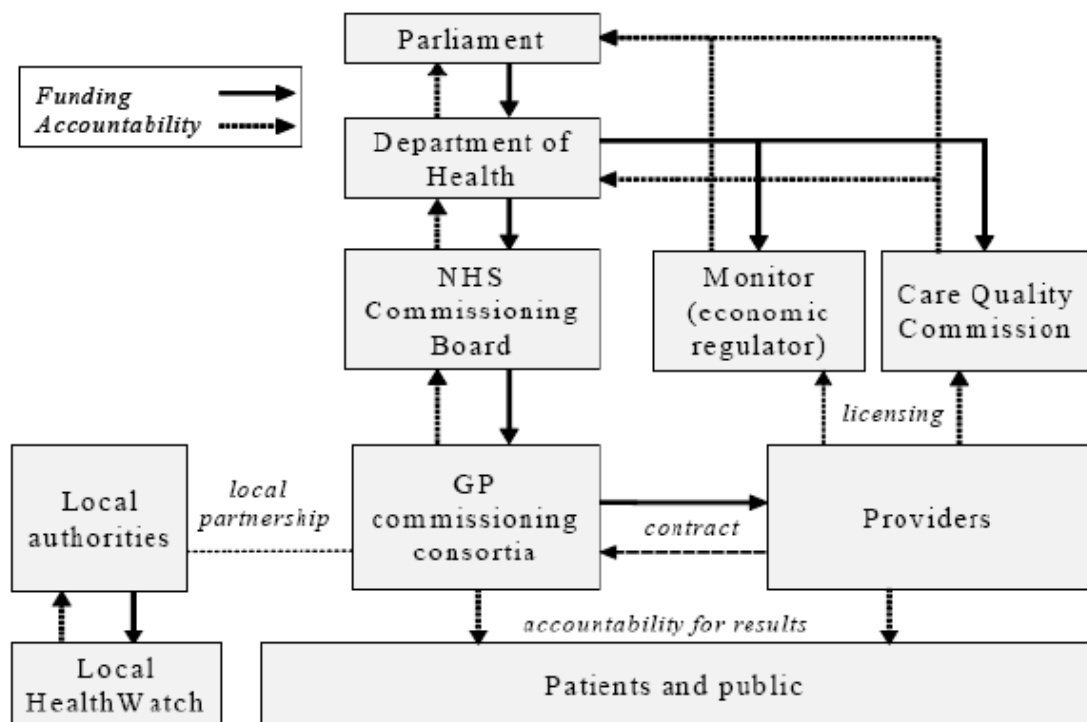
improvement

- HealthWatch England and local HealthWatch

6. Abolishing 10 Strategic Health Authorities and 150 Primary Care Trusts by 2013 is expected by the Government to achieve a targeted reduction of 45% in management costs from NHS services. These will be replaced by about 500 GP consortia who will control about £70bn currently used by PCTs to commission local health services.
7. Specialised services and others that benefit from national commissioning will be within the remit of the NHS Commissioning Board.
8. All NHS Trusts will become Foundation Trusts (FT).
9. Any willing provider that can meet safety and quality standards will be able to provide NHS services.
10. It has been proposed that Monitor will become an economic regulator across the health sector, not just Foundation Trusts, responsible for registering organisations and holding expanded powers similar to other regulatory bodies such as OFWAT. The Care Quality Commission will continue as the quality regulator as well as hosting National HealthWatch.
11. Under the new system, while the Department of Health (DH) will remain responsible for the health and care legislative framework, and Ministers will continue to be ultimately accountable, most day-to-day operational management in the NHS will take place at arm's length from the Department. With the exception of the remaining Special Health Authorities, all organisations in the NHS will have their own statutory functions conferred by legislation, rather than delegated to them by the Secretary of State.
12. While adult social care, the NHS and public health are funded and structured differently, and have different mechanisms for accountability, in future, they will all be covered by a consistent set of outcomes frameworks. Collectively these will be used to hold the DH to account for the results the DH is achieving with its resources, working with and through the health services and social care delivery system.
13. The proposals and the Bill include a significant role for Local Government. PCTs' public health function will pass to Councils. Local Directors of Public Health will be Chief Adviser on health matters to the Local Authority. A ring-fenced public health budget is being created and will be allocated (ultimately on a formula). Directors of Public Health will have statutory responsibilities in respect of the Public Health Service. A number of services currently provided by the PCT are to be transferred to Public Health England.
14. Local Authorities will take the lead for improving health; coordinating efforts to protect the public's health and wellbeing; and ensuring that health services effectively promote population health.

15. The Bill makes clear that the Director of Public Health is responsible for exercising the Local Authority's new public health functions (statutory guidance will be issued). Recent DH guidance has indicated *the 'legal responsibilities should translate into the Director of Public Health acting as the lead officer for health and championing health across the whole of the Authority's business'*. Councils will take on the function of promoting partnership and joint working of local NHS services, social care provision and health improvement. This includes leading on the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy; promoting collaboration on local commissioning plans; and supporting joint commissioning arrangements where appropriate. This will build on previous Local Strategic Partnership's work via a statutory "Health and Wellbeing Board". The Board will include elected members, NHS commissioners, public health, adult social services, children's services, urban environment and the local HealthWatch.

16. The new Governance Structure for the NHS is:



17. The changes set out in the NHS and Social Care Bill are very wide ranging and their extensive nature means that this represents what is probably the biggest reorganisation of NHS functions in half a century.

### Implications for the Council

#### Public Health Transition

18. Work on the transition of the Public Health service in Dudley has commenced. A wider Public Health Transition Group with representation from the Council and relevant stakeholders is arranged. As previously stated Public Health England is being established which will also provide Public Health activity including the provision of national data on health issues and co-ordination at a national level of

some activities. Through these local and national arrangements we are working to transform services to help improve the health of the public in Dudley so that we can work effectively with partners to improve health and address any inequalities.

19. Ensuring appropriate fit for purpose Public Health services in the context of the Council's structure and plans, makes it important that the services support the direct commissioning and delivery of our frontline services. My recommendation to Cabinet is that Public Health should be situated within the Directorate of Adult, Community and Housing Services but with strong linkages to other Council services to ensure that we have a clear corporate focus on Public Health issues. For example, this would include co-location of appropriate staff where joint working is essential.
20. As Cabinet is aware, the four Black Country authorities have developed an agenda for shared services and collaboration. In this context we are having discussions with Sandwell about the viability of having a joint appointment for the role of Director of Public Health. Clearly time is of the essence in reaching a conclusion on this proposition and, in view of the fact that we do not have another scheduled meeting of the Cabinet for three months, I am recommending that Cabinet authorise me, in consultation with the Leader, Councillor David Vickers and Councillor David Sparks, to determine whether we should have a joint or single appointment and then make the necessary arrangements through the Appointments Committee.

#### Dudley Clinical Commissioning Group

21. The Dudley Clinical Commissioning Group was formed at a very early stage in this process and has made very encouraging progress which has been recognised with a national award. The CCG is chaired by Dr David Heggarty and a number of appointments have been made including Ms Kimara Sharp as the Interim Senior Officer.
22. The CCG engages with the Council through its membership of the Shadow Health and Wellbeing Board and other relevant work groups and relationships are well developed. In addition I have been a member of the CCG Board for the last 9 months.

#### Black Country Primary Care Trust Cluster

23. As part of the ongoing transition of NHS Services to new arrangements, the powers and duties of the local NHS Dudley have been taken on through the Black Country PCT Cluster with Dr Steve Cartwright working as Managing Director for Dudley. National plans for the development of a local office for the National Commissioning Board (which will commission the primary care services provided through GPs) are in hand.

#### Shadow Health and Wellbeing Board

24. The Council has appointed a Shadow Health and Wellbeing Board for the current municipal year. The purpose of the Board is to improve the integration of care and health services through the commissioning and delivery of services in order to improve the health of Dudley people. The Board has met three times in public session and also undertaken Board development sessions. The Board has

made good progress in setting the scene for its final year in shadow form and will continue to develop its agenda in readiness for implementation of the Health and Social Care Bill.

### Healthwatch

25. Healthwatch will be a new organisation locally but it will carry forward many of the functions currently undertaken by the Dudley Local Involvement Network. Healthwatch will have three main functions:-
- Influence local health and social care
  - Inform and signpost local people on local services
  - Advice and advocacy
26. The Council has the lead on procuring the organisation but is working with partners through a reference group to oversee its implementation under the auspices of the Shadow Health and Wellbeing Board. Healthwatch will, however, be independent of the Council and NHS agencies. A Healthwatch representative will be a member of the formal Health and Wellbeing Board after April 2013 to help strengthen the voice of people using care and health services.

### Summary

27. The Health agenda is clearly complex and dynamic. The Health and Social Care Bill will continue to be amended during its passage through Parliament and at this stage it is difficult to predict with any certainty what the legislation will ultimately contain.
28. However, given these uncertainties, we must continue with our preparations at a local level, particularly with regard to Public Health, but during the course of 2012/13 there will be further update reports to Cabinet in addition to the work that will be undertaken by the Shadow Health and Wellbeing Board and the Health and Adult Social Care Scrutiny Committee.

### Finance

29. From 2013/14 onwards, Dudley MBC will receive a ring-fenced grant from Public Health England to support the public health function transferring from the NHS.

### Law

30. This report refers to the provisions under the proposed Health and Social Care Bill currently before Parliament. The Bill continues to be subject to a large number of amendments, some of which are proposed but not yet agreed/finalised. Many of the items referred to in this report will be the subject of further Regulations.

### Equality Impact

31. The Department of Health has completed an Equality Impact Assessment in relation to these changes. This is available at the DH website:

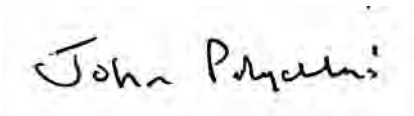
[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_117353](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353)

The Health and Social Care Bill places new duties to reduce health inequalities on the Council, the Secretary of State for Health and Clinical Commissioning Groups.

### **Recommendation**

32. It is recommended that Cabinet:-

- (1) Note this report
- (2) Agree that Public Health should be located within the Directorate of Adult Community and Housing Services and note the arrangements for ensuring that Public Health Services are delivered on a Corporate basis.
- (3) Authorise the Chief Executive, in consultation with the Leader, Cabinet Member of Adult and Community Services and the Leader of the Opposition Group, to determine whether there should be a joint or single appointment of the Director of Public Health and then make appropriate arrangements for the appointment through the Appointments Committee.



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**JOHN POLYCHRONAKIS**  
**CHIEF EXECUTIVE**

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### **List of Background Papers**

DH (July 2010) Equity and Excellence. Liberating the NHS. White Paper.  
DH (January 2012) Accounting Officer System Statement.  
DH (January 2012) JSNAs and Joint Health and Wellbeing Strategies- Draft Guidance  
DH (January 2012) NHS CB Operating Framework  
DH (January 2012) Public Health in Local Government Fact Sheets