POLICY BRIEFING – HEALTH AND SOCIAL CARE BILL 2021

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EXECUTIVE SUMMARY

On the 11th February 2021, the Department of Health and Social Care published a white paper, Integration and Innovation: working together to improve health and social care for all. The paper sets out legislative proposals for a health and care bill. The full document can be found in the "references considered as part of this briefing note" section below.

In the white paper, the Government presents several arguments for why it feels legislation is needed. These include: the need to embed the co-operation seen across the NHS in response to the Covid-19 pandemic; the need to remove longstanding barriers to collaboration; reversing competition rules that create unnecessary bureaucracy by forcing commissioners to put their services out to tender; and a desire to clarify and increase political accountability for the NHS.

The proposed legislation aims to avoid a one-size-fits-all approach and leaves many decisions to local systems and leaders. This is appropriate given the great variation across England in terms of history, demography and local health challenges. For example Havering has a higher proportion of older people (18% of the population are over 65 in Havering compared to 12.1% in London[1]) and a low number of Non-UK Nationals (7.3% in Havering, compared to 22.3% in London, 23.3% in B&D and 25.4% in Redbridge). This means that the hospitals can use the data about the areas and see which services are required where, giving the residents a better service.

At its heart, however, the government says this bill is about backing our health and care system and everyone who works in it. It outlines steps to support everyone who works to meet people's health and care needs, which taken together, will help build back better services after COVID.

The white paper establishes that, subject to Parliamentary business, the Government wants the legislative proposals it has set out to begin to be implemented from April 2022 – a relatively tight timescale.

ISSUE

While there is much to welcome in the White Paper, the health and care system faces many challenges that will not be addressed by these proposals, including chronic staff shortages, deep health inequalities and an urgent need for long-term reform of social care.

While legislative changes are needed to progress the integration agenda further and faster in the interests of improving care for patients, these proposals come at a time when the NHS, local authorities and their partners are still dealing with Covid-19. In implementing these proposals, health and care services will need to be mindful of the ongoing recovery efforts as well as dealing with the pandemic as it evolves over the coming months.

BACKGROUND

The White Paper groups the proposals under the following themes:

- working together and supporting integration;
- stripping out needless bureaucracy;
- enhancing public confidence and accountability; and

[1] Havering – Population / Demographics (haveringdata.net)

- additional proposals to support public health, social care and quality and safety.

Working together and supporting integration

In order to work together and support integration, integrated care systems (ICSs) will be established as statutory bodies in all parts of England. ICSs will be made up of two parts – an 'ICS NHS body' and an 'ICS health and care partnership'.

The ICS NHS Body will be responsible for strategic planning and allocation decisions. It will look to merge some of the strategic planning functions currently being fulfilled by non-statutory ICSs or sustainability and transformation partnerships (STPs), with the functions of clinical commissioning groups (CCGs), which will be abolished, with their staff transferring over to the ICS NHS body.

The ICS health and care partnership will be responsible for developing a plan to address the systems health, public health and social care needs which the ICS NHS body and local authorities will be required to 'have regard to' when making decisions, and each local area will be given the flexibility to appoint members.

The white paper also recognises the importance of 'place', which is a smaller footprint than that of an ICS, often that of a local authority. It suggests that much of the heavy lifting of improving population health is driven by organisations collaborating at this level. The development of place-based partnerships will be left to local determination, building on existing arrangements where these work well. ICSs will be expected to work closely with health and wellbeing boards and required to 'have regard to' the joint strategic needs assessments and joint health and wellbeing strategies produced by health and wellbeing boards.

Reducing Bureaucracy

The white paper highlights the proposed changes to procurement, which seeks to reduce transaction costs and give NHS and public health commissioner's greater flexibility over when to use competitive procurement processes when purchasing health care services. These include removing the commissioning of NHS and public health services from the scope of the Public Contracts Regulations 2015, to be replaced by a bespoke NHS provider selection regime and a new duty on commissioners to act in the best interests of patients, taxpayers and their local populations.

The procurement of non-clinical services (e.g. professional services such as consultancy) will remain subject to public procurement rules.

Improving accountability and enhancing public confidence

Firstly the white paper recognises the work already undertaken to bring together NHS England and NHS Improvement into a single organisation. It then places it on a statutory footing by abolishing the two bodies who work together under the name NHS Improvement, and transferring their functions to NHS England. This new body will be formally considered to be responsible for providing integrated, national leadership for the NHS.

In recognition of the increased range of functions this newly merged body will have, the White Paper proposes, changes to ensure the Secretary of State has 'appropriate' and 'structured' intervention powers over NHS England. There isn't a lot of detail provided on how these powers will work in practice, although it is suggested that they will continue to maintain the clinical and day-to-day

operational independence of the NHS, meaning that ministers would remain unable to direct local NHS organisations or intervene in individual clinical decisions.

To 'allow the system to adapt and shift to changes in priorities and focus over time' this section proposes to establish a new power in primary legislation that would allow the Secretary of State to transfer functions to and from specified arm's length bodies and to abolish arm's length bodies where they become redundant as a result of any such transfers. It is suggested that there are no immediate plans to use this power and that before any use in the future, formal consultation would be required.

The final proposal in this section would place a new duty on the Secretary of State to publish a report every parliament that sets out the roles and responsibilities for workforce planning and supply and would cover the NHS (including primary, secondary, and community care) as well as sections of the workforce that are shared between health and social care (e.g. registered nurses).

Additional measures

Social Care

The executive summary of the White Paper states that "the Department recognises the significant pressures faced by the social care sector and remains committed to reform". **Although there is no detail on the long-term reform of social care**, the White Paper does contain a number of specific and targeted social care changes.

In recognition of the increasing numbers of people who need adult social care and the consequent need for greater oversight of the provision and commissioning of services, the White Paper proposes introducing a new duty for the Care Quality Commission (CQC) to assess how local authorities are meeting their adult social care duties, and a new power for the Secretary of State to intervene where CQC considers a local authority to be failing to meet these duties. To support this increased oversight, the Department is also proposing changes to the types of data it collects centrally from the sector and the frequency with which it collects it.

Other proposed changes include introducing a legal framework for the 'discharge to assess' model so that assessments can take place after an individual has been discharged from acute care (replacing the current requirement to assess before discharge) and a small technical change to the Better Care Fund to separate it from the process for setting the NHS Mandate (which will no longer be set on an annual basis).

Public Health

There are also several proposals to legislate for commitments made in the government's obesity strategy, aimed at enabling it to achieve its commitment to halve childhood obesity by 2030. The first is to give ministers the power to introduce new labelling requirements to support more informed consumer choice. The other proposed changes seek to increase restrictions both on the advertising of foods high in fat, sugar or salt on TV before 9pm and on the advertising of these products online.

The White Paper also proposes changes that would move the responsibilities for initiating schemes for water fluoridation from local authorities to the Secretary of State.

Safety and Quality

The white papers plans to bring forward measures that contribute to improved quality and safety in the NHS, by placing the Health Services Safety Investigations Body on a statutory footing; establishing a statutory medical examiners system; enable the Secretary of State to set minimum statutory standards for food and drink provided in hospital settings, and allowing the Medicines and Healthcare products Regulatory Agency to set up national medicines registries. They will also look to put in place legislation to enable the implementation of comprehensive reciprocal healthcare agreements with countries around the world.

Impact on Havering

The involvement of local government is essential for ICSs to be able to drive meaningful improvements in health and wellbeing.

The first is the opportunity to join up health and social care at all levels in the system, creating better outcomes and a less fragmented experience for patients and users.

The second is the potential to improve population health and wellbeing through the leadership of public health teams as well as NHS and local government acting together to address wider determinants of health such as housing, local planning and education.

Finally, the involvement of local government can enhance transparency and accountability through supporting engagement with local communities and providing local democratic oversight.

In Havering the development of the 'Havering Borough Partnership' will be the vehicle to ensure better working together and supporting the integration requirement at a local level. There remain many questions about how this will work in practice, particularly around funding flows. However the formation of such a partnership presents an opportunity to deliver far more joined up services. The formation of the partnership is work in progress and will be regularly reported on through Council governance forums.

Havering's Health & Wellbeing Board (HWB) will provide strategic leadership for the work of the Borough Partnership, including ensuring that the Borough Partnership plans for improving health outcomes through the lens of the wider determinants of health. "Good health" must be viewed through the prism of housing, financial security, access to appropriate education, and a sense of community belonging – not just treating ill health. The HWB will therefore continue to have an important responsibility at place level to bring local partners together, whilst also delivering the Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy.

Havering alongside Barking & Dagenham, City of London, Hackney, Newham, Redbridge, Tower Hamlets and Waltham Forest are the boroughs who are part of East London Health and Care Partnership. The 7 accompanying CCG areas became a single CCG from 1st April 2021 to become North East London Clinical Commissioning Group (NEL CCG). NEL CCG will eventually formally become the NEL ICS from April 2022 (assuming the legalisation is passed as planned). NEL CCG / ICSwill retain overall responsible for commissioning health services across North East London, however will delegate as much of the decision making and control to each of the Borough Partnerships working across the health and social care landscape. The mechanisms around how this will work have yet to be determined, and the opportunity for boroughs to be around the planning table is critical to ensure subsidiarity of decision making as much as possible.

- As noted, NHS NEL CCG is part of the North East London Health & Care Partnership (NEL HCP). This brings together the below organisations together to work collaboratively as borough's with our local Primary Care Networks, but also as a system across North East London:8 local authorities
- 5 NHS Trusts
- 1 Clinical Commissioning Group
- social care providers
- GP practices
- Dentists
- Pharmacists
- Optometrists
- Community & Voluntary organisations

Havering, Barking and Dagenham and Redbridge, both councils and the local NHS have also continued our long collaboration across the BHR subsystem, and this will continue to be the case moving forward where It makes sense for us to do so. This is particularly the case where for example we are working with NHS provider trusts, whose patient catchments are from all three boroughs.

The NEL HCP is the most diverse ICS in the country with the youngest population, although Havering has a one of the highest proportions of older residents.

North east London boroughs have endured some of the highest COVID-19 mortality rates in the UK. Whilst the longer-term consequences of the pandemic are not yet fully known, national socio-economic indicators are showing there is a significant risk of widening health inequalities.

The NEL HCP are developing a new clinical and professional leadership model, building on strengths across the partnership which have already driven improvements in primary care, mental health and acute services including reconfiguration of cardiovascular, stroke and trauma care.

Strong clinical leadership has been at the forefront of the COVID-19 response including through the new ICS Clinical Advisory Group, established in Spring 2020, and our Incident Management Team formed by the DsPH to support outbreak management, and testing as well as action on health inequalities.

As a system, we now want to capitalise on this progress to develop and broaden clinical and professional leadership by increasing diversity and representation from wider professionals (including AHPs, PH and social care), improve the governance and accountability and to ensure population health is a shared responsibility across all of our ICS clinical / professional leadership.

Our programme to develop an ambitious new clinical / professional leadership model for the ICS is based around the following objectives –

- Increasing diversity in our leadership roles and growing more of our leaders locally
- Increasing the range of professions represented in leadership roles
- Maintaining and developing strong leadership at both NEL level and in our ' Places
- Progressing key executive team clinical appointments
- Ensure a robust competency based recruitment process is used consistently across the ICS
- Developing an underpinning investment plan
- Re viewing and developing our clinical networks to ensure they are fit for purpose and integrated

- Supporting the development of our clinical Advisory Group and Senate
- Widening responsibility for population health across all of our leadership
- Strengthening governance accountability

The pandemic brought NHS organisations and partners across NEL more closely together than ever before in responding to Covid. In particular the three acute trusts – Homerton, BHRUT and Barts Health Group – worked together to co-ordinate care for critically-ill Covid patients and those with urgent and emergency needs. We are all committed to embedding the positive changes we have made over the last year and building a more resilient model for the future.

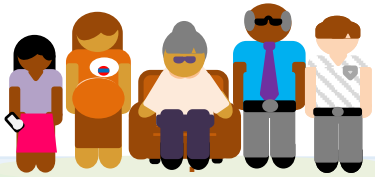
Whilst the three acute trusts in NEL have a long history of working together, in June 2020 they committed to establishing an **Acute Alliance** to strengthen joint working and respond to immediate and longer term planning to help drive increased standardisation across NEL. The Acute Alliance sits within **NEL ICS** governance, reporting into the NEL ICS Executive.

Two of the trusts involved – Barts Health Group and BHRUT, which together account for 85% of acute care within NEL – are adopting a **shared leadership** structure to enable them to go further and faster in some key areas and accelerate the pace of improvement. It is fair to say that there are some reservations at borough level within the BHR subsystem as to the benefit of adopting a shared leadership approach, with some concern that there may be unintended consequences in terms of accessing timely health care for our residents. Reassurances are being sought about this.

The BHR Partnership

The following diagram represents the BHR partnership:

BHR Our Integrated Partnership



Co-production & Engagement

Our patients, residents and local communities

BHR SYSTEM (80%)

Havering North PCN | Havering PCN | Havering PCN | Havering Marshall's PCN | Cranbrook PCN | Wanstead Woodford PCN | New Cross Alliance PCN | Seven Kings PCN | Loxford PCN | Fairlop PCN | B&D North PCN | B&D North West PCN | B&D West PCN | B&D New PCN | B&D East PCN | B&D East PCN

Community Based Care

Delivery and Improvement

BOROUGH PARTNERSHIPS

Barking and Dagenham Health and Wellbeing Board	Havering Borough Partnership (which links to the Health and Wellbeing Board)	Redbridge Health and Wellbeing Board
Delivery: B&D Delivery Group	**Delivery: Place based Care**	Delivery: Redbridge Operational Group
Scrutiny: HSC		Scrutiny: HSC

Planning and Co-ordination

BHR TRANSFORMATION BOARDS

Children and Young People, Mental Health, Planned Care, Unplanned Care, Cancer, Primary Care, Long Term Conditions, Older People/ Frailty, LD and Autism

Supported by key enablers: workforce, digital, finance, estates

Integrated Care Executive Group; Commissioners and Providers

Integrated Care Partnership Board; with Health and Care Cabinet

Oversight and Assurance

North East London ICS and single North East London CCG

NEL (20%)

Partners at all levels of the BHR system:

- London Borough Barking and Dagenham
- London Borough Havering
- London Borough Redbridge
- BHRUT
- NELFT
- Primary Care Networks x16
- GP Federations x3
- CCG x 1
- Healthwatch x3
- Community and voluntary sector
  - PELC
  - Others e.g. Barts Health, police, housing etc.

As previously noted, BHR Partners across health and care, who have been working together for a number of years, are committed to developing integrated care and partnership working.

The response to COVID-19 brought health and care partners together in an unprecedented way to deal with the challenges faced. We are proud of what has been achieved to care for our residents in this period at such a difficult time, and are now working on recovery together.

Collaborating across the NHS and local government is not easy, and requires local leaders (including NHS leaders as well as officers and elected members in local government) to better understand each other's challenges, to recognise and respect differences in governance, accountabilities, funding and performance regimes, and to find ways to manage these differences.

Timeframe

The direction of travel as indicated in the White Paper is supportive of the development of integrated care locally. We have identified the key dates below, which are worth noting.

11th February 2021 – White Paper published

April 2021 – All 7 CCGs across North East London merged to make one North East London CCG

July 2021 – Second reading of Health and Care Bill expected

September 2021 – The start of the CCG Transition

January 2022 – Expected Royal Assent

April 2022 – Legislative proposals set out, set to be implemented

PROS OF THE BILL

The proposals published so far have been widely welcomes as there is an opportunity to shift the culture of how we work together, removing the unhelpful transactions and barriers that used to exist between organisations and moving to a common purpose of transforming services around our populations needs. Making our governance, systems and processes easier to deliver that transformation and building trusting relationships and teams focused on outcomes.

Recognising that the only way we can address the significant on-going challenges to health and care is to work together, we want to build on our achievements and deliver more for the people we serve.

CHALLENGES WITH THE BILL

The implementation of the proposed Bill is quite short and at a time when the NHS is still battling the effects of the Covid-19 pandemic. It is also unclear as to the full affects the pandemic has had on the NHS in general and individual areas, all of whom have been affected differently. This information should be clear before any major changes are implemented.

The White paper does not set out a long term plan for social care, which has the potential to destabilise the success of the ICS, nor does the white paper make a mention to unpaid carers. This is

a key consideration for Havering , as statistics show that our borough has 25,214 (11%) unpaid carers[2], which looks like it will increase significantly once the Census 2021 results are released.

RECOMMENDATIONS

The document is for information only so it is recommended that members take note of this briefing. Comments or questions can be sent to John Green, Head of Joint Commissioning: john.green@havering.gov.uk

REFERENCES CONSIDERED AS PART OF THIS BRIEFING NOTE:

https://houseofcommons.shorthandstories.com/health-social-care-white-paper/index.html?utm_source=twitter&utm_medium=tweet&utm_campaign=white-paper&utm_content=organic>

https://www.kingsfund.org.uk/publications/health-social-care-white-paper-explained?gclid=EAIaIQobChMIutvm2pGK8QIVgpntCh2tIA2dEAAYASAAEgKa5PD_BwE

https://www.gov.uk/government/publications/working-together-to-improve-health-and-social-care-for-all/integration-and-innovation-working-together-to-improve-health-and-social-care-for-all-html-version

Havering - NHS North East London CCG

Integrated care systems explained | The King's Fund (kingsfund.org.uk)

The Government's White Paper proposals for the reform of Health and Social Care - Health and Social Care Committee - House of Commons (parliament.uk)

210607 NEL ICS System development Plan V2.2 powerpoint

Full white paper -
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960548/integration-and-innovation-working-together-to-improve-health-and-social-care-for-all-web-version.pdf

Havering officers contacted as part of the research and Legislation cited

John Green | Head of Joint Commissioning Unit

Lucy Goodfellow | Policy & Performance Business Partner (CAH)

[2] Havering – Health & Social Care – Reports (haveringdata.net) ONS Census 2011