

	<u>Agenda Item: 11</u>
Report to:	Birmingham Health & Wellbeing Board
Date:	19 May 2021
TITLE:	OVERVIEW OF THE HEALTH AND SOCIAL CARE WHITE PAPER (PUBLISHED FEBRUARY 2021): INTEGRATION AND INNOVATION: WORKING TOGETHER TO IMPROVE HEALTH AND SOCIAL CARE FOR ALL
Organisation	Birmingham City Council
Presenting Officer	Aidan Hall, National Management Trainee, Public Health

Report Type:	Information
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1. Purpose:	
1.1	To provide the Board with a summary of the White Paper published on 11 February 2021 by the Department of Health and Social Care: Integration and innovation: working together to improve health and social care for all.

2. Implications:		
BHWB Strategy Priorities	Childhood Obesity	✓
	Health Inequalities	✓
Joint Strategic Needs Assessment		✓
Creating a Healthy Food City		✓
Creating a Mentally Healthy City		✓
Creating an Active City		✓
Creating a City without Inequality		✓
Health Protection		✓

3. Recommendation	
3.1	The Board is asked to note the report and reflect on the opportunity presented by the proposed legislation.
3.2	The Board is asked for their commitment to work with partners in the development of the integrated care system (ICS) and to recognise the benefits of working in collaboration with partners in the system.

4. Report Body

This overview has been produced using the [White Paper](#) and other summaries, including those from the [King's Fund](#), the [Local Government Association](#) and the [NHS Confederation](#). Each theme has been summarised with the relevant proposals.

Introduction

Theme 1: Working together and supporting integration

- Establishing integrated care systems (4.6-4.18)
- Duty to collaborate (4.19)
- Triple aim (4.19)
- Power over foundation trusts capital spend limits (4.20)
- Joint committees (4.21)
- Collaborative commissioning (4.21)
- Joint appointments (4.22)
- Data sharing (4.23-2.24)
- Patient choice (4.25)

Theme 2: Reducing bureaucracy

- Competition (4.27)
- Arranging healthcare services (4.28-4.30)
- National Tariff (4.31)
- New Trusts (4.32)
- Removing local education training boards (4.33)

Theme 3: Enhancing public confidence and accountability

- Merging NHS England, Monitor and the NHS Trust Development Authority and Secretary of State powers of direction (4.34-4.36)
- The NHS mandate (4.37)
- Reconfigurations intervention power (4.38)
- Arm's length bodies (ALB) transfer of functions (4.39)
- Removing special health authorities time limits (4.40)
- Workforce accountability (4.41)

Additional Proposals

- Social care
 - Assurance (4.43-4.44)
 - Data (4.45)

- Direct payments to providers (4.46)
- Discharge to assess (4.47)
- A standalone power for the Better Care Fund (4.48)
- Public health
 - Public Health power of direction (4.49-4.50)
 - Obesity (4.51)
 - Fluoridation (4.52)
- Safety and quality (4.53-4.57)

The White Paper and the Health and Wellbeing Board

Introduction

- 4.1 On 11 February 2021, the Department of Health and Social Care (DHSC) published **Integration and innovation: working together to improve health and social care for all**, a White Paper which outlines proposals for a future Health and Social Care Bill.
- 4.2 The proposals outlined in the document follow [those developed by NHS England](#) that support the NHS Long Term Plan. The White Paper is comprised of three themes:
 - Working together and supporting integration
 - Stripping out needless bureaucracy
 - Enhancing public confidence and accountability
- 4.3 It also contains additional proposals to support public health, social care, and quality and safety. These proposals have been brought forward by DHSC following the pandemic to support the system to recover and reform.
- 4.4 The government plans to introduce a Health and Social Care Bill to Parliament in 2021 so that the measures can start to be implemented in 2022. Systems are expected to operate in shadow form from September 2021.
- 4.5 The White Paper offers a commitment to continue to engage with stakeholders on the detail of the proposals, as well as to work across government to address the interdependencies between health and other social determinants. The Health and Wellbeing Board (HWB) should ensure it collectively responds to proposals in any future consultation opportunities.

Theme 1: Working together and supporting integration

- 4.6 The main element of this theme is the proposal for integrated care systems (ICS) to become statutory bodies, building on the work following the publication of the NHS Long Term Plan.
- 4.7 ICSs bring together partners from across a geographical area to integrate care and collectively plan for the benefit of the local population. An ICS will usually serve a population of over one million and therefore contains a series of smaller partnerships to meet the specific needs of local areas.
- 4.8 The ICS will include an ICS NHS Body and an ICS Health and Care Partnership which are summarised below.
- 4.9 The public and patient voice will be important in both bodies.
- 4.10 Clinical Commissioning Groups (CCGs) will close and their functions will be repurposed in the ICS.
- 4.11 The legislation will recognise and preserve the distinct accountabilities between local government and the NHS.

ICS NHS Body

- 4.12 The ICS NHS Body will be responsible for strategic planning and decisions involving allocation. It will be responsible for the day to day running of the ICS and will be accountable to its population at a system level for NHS spending. The financial allocation will be set by NHS England and include the cover of the majority of NHS care for its population.
- 4.13 Some strategic planning functions between non-statutory ICSs and CCGs will merge. The NHS ICS Body will take on CCG responsibilities in relation to local authority overview and scrutiny committees.
- 4.14 NHS trusts or foundation trusts will remain separate statutory bodies to the ICS NHS Body. However, NHS trusts will be expected to be involved in the partnership and take an active involvement in strategic commissioning.
- 4.15 The ICS NHS Body will not have the power to direct providers, and providers' relationships with the Care Quality Commission (CQC) will remain unchanged. A new duty will ensure providers and ICS NHS Bodies are invested in attaining financial control at system level.

ICS Health and Care Partnership

- 4.16 The other element of the ICS outlined in the document is the ICS Health and Care Partnership. This partnership will bring together the NHS, local

government and partners. Local areas will be given the flexibility regarding its membership and functions.

- 4.17 The ICS Health and Care Partnership will develop a plan to address the systems' health, public health, and social care needs. The ICS NHS Body and the local authority will 'have regard to' the plan.
- 4.18 There is an expectation that ICS NHS Bodies delegate 'significantly' to place level (e.g. Birmingham). ICSs are expected to work closely with HWBs and 'have regard to' the joint strategic needs assessments and joint health and wellbeing strategies in the area.

Other measures in working together and supporting integration

- 4.19 There will be a duty to collaborate across the NHS and local government which replaces the two existing duties to cooperate. NHS bodies will pursue the 'triple aims' of the NHS Long Term Plan.
- 4.20 The government will have a new power to impose capital spending limits on foundation trusts that are not working to prioritise capital spending within their ICS.
- 4.21 There are a range of proposals to allow NHS England and ICSs to work together in different ways to collaboratively commission services (similar to Section 75 arrangements). The legislation will be amended to assist organisations by enabling decisions to be taken by joint committees and to facilitate increased collaboration across different footprints. For example, it will enable NHS England to share some of its direct commissioning functions with ICSs.
- 4.22 New provisions will allow NHS bodies to make joint appointments with other NHS bodies and with local authorities.
- 4.23 There are proposals to ensure more effective data sharing across the health and care system, including a requirement to share anonymised information to the benefit of the health and care system.
- 4.24 The Secretary of State for Health and Social Care will have new powers that allow the requirement of data from all registered social care providers about all services they provide, as well as require data from private healthcare providers. There is also a power that will be introduced to mandate standards for data collections and storage.
- 4.25 Regarding the strengthening of patient choice and control, one proposal is to repeal section 75 of the Health and Social Care Act 2012 including the Procurement, Patient Choice and Competition Regulations 2013. It proposes to replace this with a new provider selection regime, and this would require bodies that arrange NHS services to protect, promote and facilitate patient choice.

Theme 2: Reducing bureaucracy

- 4.26 This theme contains several proposals that relate to competition, arrangements for commissioning and providing healthcare services.
- 4.27 To reduce competition and increase integration, the proposals outline changes that include removing the Competition and Markets Authority's (CMA) role in reviewing mergers involving NHS foundation trusts. Currently the CMA has powers to review mergers involving foundation trusts with the previous aim of improving services through competition. The White Paper proposes allowing NHS England to ensure decisions are made in the best interest of patients. These proposals are alongside the removal of the competition functions of NHS Improvement.
- 4.28 In arranging healthcare services, the proposals aim to give NHS and public health commissioners more flexibility on when to use competitive procurement processes, including the removal of commissioning of these services from the scope of the Public Contracts Regulations 2015.
- 4.29 Powers in the bill will enable the development of a new NHS provider selection regime which will be informed by NHS England's public consultation. Commissioners will be under duties to act in the best interests of patients, taxpayers and the local population.
- 4.30 Public procurement rules will still apply to the procurement of non-clinical services.
- 4.31 The proposals outline changes to the national tariff payment system. This includes removing the requirement on providers to apply to NHS Improvement where they wish to make local modifications to tariff prices.
- 4.32 One proposal outlines a change to give the Secretary of State for Health and Social Care the power to create new trusts 'to provide integrated care' and potentially in other circumstances subject to appropriate consultation.
- 4.33 Finally, this section proposes to remove the requirement for Local Education and Training Boards.

Theme 3: Improving accountability and enhancing public confidence

- 4.34 This section focuses on the accountability arrangements of the NHS and enhancing public confidence. It sets out several legislative proposals with the aim to formally bring together NHS England and NHS Improvement (statutory footing).
- 4.35 It proposes abolishing Monitor and the NHS Trust Development Authority (who work together under the name NHS Improvement) and transferring their

functions to merge fully with NHS England. This body will now be formally considered to be responsible for providing 'unified, national leadership for the NHS'.

- 4.36 The White Paper proposes that the Secretary of State for Health and Social Care is given 'appropriate' and 'structured' powers of direction in relation to NHS England. It is outlined that this will maintain clinical and day-to-day operational independence for the NHS but support accountability. These powers will not allow the Secretary of State to direct local NHS organisations or intervene in individual clinical decisions.
- 4.37 There is a proposal to change the frequency with which the Secretary of State is required to publish the NHS mandate. The NHS mandate is a document that sets out the objectives that NHS England is expected to achieve. Currently it is published on an annual basis. The White Paper proposes a new requirement to always have a mandate in place to provide flexibility.
- 4.38 Reconfigurations involve changing the way NHS services are delivered to patients. The White Paper proposes that the Secretary of State be given power to intervene in local service reconfigurations at any point to speed up decision-making. The Secretary of State would be required to seek appropriate advice before intervening, and to subsequently publish it afterwards.
- 4.39 This section also 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 (ALB) and to abolish ALBs where they become redundant as a result of any such transfers. However, it is outlined that there are no immediate plans to use this and that formal consultation would be required before any use in the future.
- 4.40 Currently, the Secretary of State is required to review and formally extend the existence of any special health authority established after 2012. The White Paper proposes to remove this.
- 4.41 Finally, to ensure workforce accountability and provide transparency, this section has a proposal that involves 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. This includes the NHS and the workforce across health and social care.

Additional proposals

The remaining proposals are targeted and intended to address specific issues highlighted during the pandemic, and which require primary legislation.

Social Care

- 4.42 According to the document, ICS legislation will complement place-based partnership working between the NHS and social care (including HWBs). The ICS Health and Care Partnership will support closer integration and collaborative working between health and social care.
- 4.43 The Health and Care Bill will introduce a new duty for the CQC to assess local authorities' delivery of their adult social care duties as part of an assurance framework for social care. The government proposes to introduce a power for the Secretary of State to intervene where, following assessment under the new duty, it is considered that a local authority is failing to meet its duties. The White Paper makes it clear that these provisions will be secured in primary legislation at a high level, prior to working with the sector on detailed system design.
- 4.44 The initial focus of the assurance framework for social care will be to improve the quality, timeliness and accessibility of adult social care data. The assessment and intervention elements will be introduced over time.
- 4.45 The White Paper proposes to improve the quality and availability of data across health and social care to remedy gaps to help understand capacity and risk in the system. It also highlights the gap in data on services provided to people who fund their own care, as well as data that would help show how money flows to providers and the workforce. It sets out how more and better data will aid planning for the future care of the population.
- 4.46 The government will legislate to amend the Health and Social Care Act 2008 to expand the powers of the Secretary of State so they can make direct payments any bodies engaged in the provision of social care services (they can currently only make such direct payments to not-for-profit bodies). It is clear that the power will not be used to amend or replace the existing system of funding adult social care and will only be used in exceptional circumstances.
- 4.47 The White Paper updates the approach to hospital discharge by changing the legislative framework to enable a 'discharge to assess' model. This model includes enabling assessment for NHS continuing healthcare (CHC) and NHS Funded Nursing Care (FNC) assessments, and Care Act assessments, to take place after an individual has been discharged from acute care. The proposals outline plans to repeal existing requirements to assess for care needs before hospital discharge, and the accompanying process of assessment and discharge notices.
- 4.48 The White Paper proposes to create a standalone legal basis for the Better Care Fund (BCF), separating it from the NHS Mandate setting process, which will no longer be on an annual basis (as stated above in 4.37). This is a technical change and will not have any impact on the function or purpose for the fund.

Public Health

- 4.49 Under section 7A of the 2006 NHS Act, the Secretary of State for Health and Social Care can make arrangements for public health functions to be exercised by others including NHS England. They cannot require NHS England to take the delegated function.
- 4.50 The government proposes to bring forward measures to give the Secretary of State the power to direct NHS England to take on specific public health functions delegated by the Secretary of State alongside the existing section 7A provisions.
- 4.51 Building on the government's obesity strategy, there are proposals to give ministers powers to introduce new strengthened food labelling requirements, including changes to front-of-pack nutrition labelling and mandatory alcohol calorie labelling. It is also the government's intention to introduce further restrictions to prohibit advertisements for products high in fat, sugar or salt being shown on TV before 9pm.
- 4.52 The White Paper also proposes changes to water fluoridation schemes in England by transferring the responsibilities (including consultation responsibilities) from local authorities to the Secretary of State for Health and Social Care.

Safety and quality

- 4.53 This section outlines proposals to support and enhance safety and quality in the provision of healthcare services.
- 4.54 The Healthcare Safety Investigation Branch (HSIB) will be put on a statutory footing.
- 4.55 DHSC will be given more powers to amend the governance of healthcare professionals' regulation. This aims to ensure that the level of regulatory oversight is proportionate to the risks to the public. DHSC will be able to reduce the number of regulatory bodies and extend professional regulation to NHS managers and leaders.
- 4.56 Within the NHS, a statutory medical examiner system will be introduced to scrutinise all deaths which do not involve a coroner.
- 4.57 The Medicines and Healthcare products Regulatory Agency (MHRA) will be permitted to develop and maintain publicly funded and operated medicine registries. This is to enable evidence-based decision-making.

The White Paper and the Health and Wellbeing Board

- 4.58 HWBs will remain in place and will continue to have an important responsibility at place level to bring local partners together. The White Paper refers to the HWBs experience as place-based planners. The ICS NHS Body will also 'have regard to' the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
- 4.59 Government will support HWBs and ICSs (with guidance) to work together closely to complement each other and share learning and expertise.
- 4.60 According to the White Paper, members of the ICS Health and Care Partnership could be drawn from a number of sources including HWBs.
- 4.61 Responses to the White Paper including the LGA have commented on the need for clarity on the roles and responsibilities of the ICS NHS Bodies and the ICS Health and Care Partnerships and how they relate to HWBs.
- 4.62 The White Paper and the development of the integrated care should complement the existing work, aims and priorities of the HWB in reducing health inequalities, particularly using the experience of the pandemic. The White Paper states that tackling health inequalities and the wider determinants of health cannot be addressed by one part of the system alone.

5. Compliance Issues

5.1 HWBB Forum Responsibility and Board Update

The government plans to introduce a Health and Social Care Bill to Parliament in 2021 so that the measures can start to be implemented in 2022. The Board will monitor the proposals and subsequent legislative changes needed to progress the White Paper.

5.2 Management Responsibility

Dr Justin Varney, Director of Public Health, Birmingham City Council

6. Risk Analysis

Identified Risk	Likelihood	Impact	Actions to Manage Risk
Understanding the role of the HWB in the system and ensuring a strong and	Low	Medium	Continued dialogue and engagement with the Board on the proposals set out in

representative voice in future engagement opportunities and development of the ICS			the White Paper and the development of the ICS
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The following people have been involved in the preparation of this board paper:

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