report

meeting	HEALTH AND WELLBEING BOARD		
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REPORT OF THE CORPORATE DIRECTOR OF ADULT SOCIAL CARE, HEALTH AND PUBLIC PROTECTION

GOVERNMENT RESPONSE TO THE NHS LISTENING EXERCISE

PURPOSE OF THE REPORT

1. This report gives an outline of recommendations made by the NHS Future Forum and the government's response to those recommendations. The majority of these changes will require amendments to the Health and Social Care Bill.

INFORMATION AND ADVICE

NHS Future Forum Report

2. The NHS Future Forum has undertaken a listening exercise, which has included over 200 face-to-face events, online events such as webchats, an online inbox for comments and social networking routes to get people involved. Reponses were received from over 30,000 individuals and organisations.

3. The summary report by the Forum makes 16 core recommendations:

   a. To ensure the values and principles in the NHS constitution are protected and promoted, the Bill should include a new duty for the NHS Commissioning Board and Commissioning Consortia to actively promote the constitution. Along with Monitor and the Care Quality Commission they should set out how they are meeting their duty to have regard to the constitution in their annual reports.

   b. While the NHS should be free from political interference, the Secretary of State should remain ultimately accountable and The Bill amended to make this clear.

c. The Bill should include stronger and clearer duties of involvement for patients and carers to be equal partners with healthcare professionals, focused on the principles of shared decision making – 'no decision about me, without me'.

d. To ensure that decisions are transparent, the Bill should require Commissioning Consortia to have a governing body that meets in public and has effective independent representation to protect against conflict of interest. Members of the governing body should abide by the Nolan principles for conduct in public life. All commissioners and major providers of NHS funded services should be required to publish board papers and minutes and hold their board meetings in public. Foundation Trust governors must receive training and support to oversee their Trust's performance, with Monitor's compliance role in place until governors are sufficiently skilled.

e. The Bill should require Commissioning Consortia to obtain relevant multi-professional advice to inform commissioning decisions. There should be a strong role for clinical and professional networks and multi-speciality clinical senates should be set up to provide strategic advice to local Commissioning Consortia, Health and Wellbeing Boards and the NHS Commissioning Board.

f. Experienced managers are crucial and must be retained to support clinical leaders through transition and to ensure efficiency savings.

g. There should be a comprehensive system of Commissioning Consortia, but they should only be authorised to take on the full range of responsibilities when they are ready and able to do so. The NHS Commissioning Board should commission on their behalf where they are not ready, while supporting them to take on powers as soon as possible.

h. Choice and control for patients should go much further than just choice of provider - following public consultation the Secretary of State should give a 'choice mandate' to the NHS Commissioning Board setting out the parameters of choice and competition. Healthwatch England should have a citizen's panel reporting to Parliament on how well the mandate has been implemented and there should be a strengthened 'right to challenge' poor services and lack of choice.

i. Competition should be used to support choice, integration, and improved quality and never as an end in itself. The Bill should be amended so that the role of Monitor is to support choice, collaboration and integration, with the primary duty to promote competition removed.

j. Additional safeguards should be in place to prevent private providers 'cherry picking' patients; the government should not seek to increase the role of the private sector as an end in itself.

k. The duty on the Secretary of State, the NHS Commissioning Board and Consortia to reduce health inequalities is welcomed and all elements of the new systems must be used to achieve this.

l. The Bill should strengthen the role and influence of Health and Wellbeing Boards so they have stronger powers to promote integration and meet local health needs. Boards should hold local Commissioning Consortia and social care to account if their commissioning plans are not in line with the local Joint Health and Wellbeing Strategy.

m. Better integration across health and social care should be a key aim and to support the boundaries of local commissioning consortia should 'not normally cross those of local authorities, with any departure needing to be clearly justified'. Joint commissioning demonstration sites in health, social care and public health should be set up and evaluated.

n. There are concerns about insufficient detail on changes to workforce training and education. The professional development of staff is critical, but 'is not being taken seriously enough'. The National Quality Board should urgently examine this issue.

o. Improving public health is everyone's business, and must be supported by independent, expert public health advice at every level. The Forum advises that Public Health England should not be set fully within the Department of Health.

p. The NHS Commissioning Board should be established as soon as possible to ensure that the priorities of quality, safety and meeting the financial challenge are addressed in the transition to the new system.

<u>The Government's Response</u>

4. The government has accepted the Forum's core recommendations and has published a response which gives more detail about how the Health and Social Care Bill will be amended. Details of amendments, in addition to the Forum's recommendations, are given below.

Clinical Commissioning Groups

5. GP consortia will now be known as 'Clinical Commissioning Groups' and their governing bodies will have to include at least one registered nurse and a doctor from secondary care (who must not be employed by a local service provider). They must also have at least two lay representatives, one of whom must be the Chair or Deputy of the governing body.

6. Meetings must be in public and their minutes published. Groups must also publish details of their contracts with service providers. They will be expected to have a name which uses the NHS brand and demonstrates a clear link to their locality.

7. Commissioning Groups will only be authorised to take on any part of the local commissioning budget when they are ready and willing to do so. Until then the NHS Commissioning Board will commission services. Health and Wellbeing Boards will have a role in the authorisation process of the Groups and in their ongoing annual assessments.

8. Approval for the Groups may be given before the original April 2013 deadline but some Groups may not be authorised until after that date. Consideration may need to be given locally to the impact any variation in the Clinical Commissioning Groups authorisation process may have on the work of the Health and Wellbeing Board.

9. Clinical Commissioning Groups will have a duty to promote integrated health and social care based around the needs of service users. The Groups will be given the flexibility to work in partnership with other commissioning services such as local authorities, the NHS Commissioning Board and other commissioning groups to support integrated working.

10. Groups will not be able to delegate any of their responsibility for commissioning services to a private company or contractor but they will be able to use external agencies for commissioning support.

11. Groups will be responsible for providing emergency and urgent care services within their boundaries and for commissioning services for unregistered patients.

Health and Wellbeing Boards

12. The Bill will make it clearer that Health and Wellbeing Boards should be involved in the development of Clinical Commissioning Group commissioning plans and there will be a stronger expectation for these plans to be in line with the Joint Health and Wellbeing Strategy.

13. Commissioning plans will have to include the views of the local Health and Wellbeing Board on whether they have due regard to the joint strategy and although Boards will not have a veto, they will have a clear right to refer commissioning plans back to Commissioning Groups or to the NHS Commissioning Board for further consideration.

14. Boards will operate as local government executive bodies.

15. There will be changes to the Bill to require patient and public involvement developing the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy. This will be in addition to HealthWatch representation on the Board.

16. Health and Wellbeing Boards will have a stronger role in promoting joint commissioning and integrated provision across the NHS, social care and public health. There will be new statutory guidance on Joint Health and

Wellbeing Strategies to encourage lead and joint commissioning and integrated commissioning.

NHS Commissioning Board

17. Primary Care Trusts will be abolished by April 2013 and primary care cluster arrangements will be in place by then to support the NHS Commissioning Board. Strategic Health Authorities will remain in place until April 2013 but will work on smaller cluster arrangements similar to those which have been put in place for Primary Care Trusts.

18. The NHS Commissioning Board will be established in shadow form as a special health authority in October 2011. It will be formally established as an independent statutory body by October 2012 and will take on its full responsibilities in April 2013.

19. The NHS Commissioning Board will be tasked with finding innovative ways of promoting integrated care which may include developing tariffs for integrated pathways of care and exploring opportunities for single budgets for health and social care in line with government proposals for Community Budgets.

Clinical networks and clinical senates

20. Existing clinical networks will have a stronger role in commissioning. Clinical advice for the NHS Commissioning Board will also be provided by 'Clinical Senates' which should include doctors, nurses and other health professionals as well as public health specialists and adult and child social care experts. The clinical networks and clinical senates will be hosted by the NHS Commissioning Board and will provide advice to Clinical Commissioning Groups, Health and Wellbeing Boards and other commissioners.

21. There are already national clinical networks in place which operate around a particular pathway or condition. It is recommended that these networks are embedded at all levels in the new system. Clinical networks will work together to develop the best pathways of care. Clinical senates will help commissioning groups to make sure that improvements in patient care are made in an integrated way. Both will have a role in providing feedback to the NHS Commissioning Board about the needs of local commissioners.

22. The Bill will be amended to strengthen the duties of the NHS Commissioning Board and the Clinical Commissioning Groups to secure professional advice and Clinical Commissioning Groups will be expected to follow the advice of Clinical Senates. There will also be a new duty for Monitor to obtain appropriate clinical advice.

23. Membership of the Clinical Senates should include public health and adult and child social care experts to support better integration of service.

Patient and public involvement

24. Patient and public involvement will be strengthened throughout the system. Monitor will have a new duty to carry out patient and public involvement. Commissioning Groups will also have to involve the public on any changes to services, not just those with 'significant' impact.

HealthWatch

25. The Bill will include an explicit requirement that local HealthWatch membership is representative of different users, including carers.

26. The deadline for establishing HealthWatch England and local HealthWatch is now October 2012.

27. Commissioners and providers will have a duty to have due regard to findings from local HealthWatch.

28. HealthWatch England will have the power to establish a citizens' panel to look at how choice and competition are working and to inform HealthWatch's annual report to Parliament.

Other issues

29. There will be measures to ensure that competition is only used to the benefit of patients. Monitors role will be re-orientated away from promoting competition. It is interested that any competition will be based on quality rather than price.

30. There will be a duty for the Secretary of State, NHS Commissioning Board, Clinical Commissioning Groups and Public Health England to promote research and innovation.

31. To ensure that expert and scientific advice provided by Public Health England is independent, it will be established as an executive agency of the Department of Health from April 2013.

32. An Information Strategy will be published which will set out how information systems in the NHS, social care and other agencies will connect to support joined-up care.

CONCLUSION

33. The recommendations made by the Future Forum and the governments response indicate a strengthening of the Health and Wellbeing Boards position within the proposed health service. The contents of the Futures Forum report and the government response both support the initial discussions regarding development of the Shadow Board in Nottinghamshire.

34. The Board may wish to review working arrangements prior to April 2013 in light of progress by the Clinical Commissioning Groups towards full authorisation.

STATUTORY AND POLICY IMPLICATIONS

35. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the report.

RECOMMENDATIONS

36. It is recommended that the report be noted and the implications of any change to the Health and Social Care Bill be considered following the confirmation of amendments.

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FINANCIAL COMMENTS OF THE SERVICE DIRECTOR (FINANCE)

(RWK 21/06/2011)

37. None.

LEGAL SERVICES COMMENTS (SLB 21/06/2011)

38. County Council established the Health and Wellbeing Board on 31st March 2011. The Board has authority to consider the matters set out in the report.

BACKGROUND PAPERS AVAILABLE FOR INSPECTION

39. Government Response to the NHS Future Forum Report – Department of Health – June 2011.

40. Letter to Local Authority Leaders and Chief Executives from David Behan, Director General for Social Care, Local Government and Care Partnerships, Department of Health – 20th June 2011.

ELECTORAL DIVISIONS AFFECTED

41. Nottinghamshire.

HWB13