

MEDWAY HEALTH AND WELLBEING BOARD

13 APRIL 2021

NHS WHITE PAPER THE FUTURE OF HEALTH AND CARE

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Summary

This report provides an update on the recently published NHS White Paper on Health and Social Care reform. It will enable the Board to debate the implications of the proposed transformation of NHS services and how to ensure this process is aligned to local governance and shape future arrangements for collaboration and engagement with the proposed new NHS body for Kent and Medway.

1. Budget and Policy Framework

- 1.1. On the 11 February 2021, the UK Government published a White Paper on the 'Future of Health and Care'. Although primarily focused on England, the paper has significant implications for health and care services across all 4 home nations. The primary changes set out in this white paper will result in:
- Creation of a statutory NHS Body to integrate health and care services at a system level (Integrated Care System-ICS) and transferring all commissioning duties and functions from Clinical Commissioning Groups to the ICS
 - Creation of a partnership board within the ICS that provides local authorities, and other organisations, with direct input and oversight of the work of the NHS at local level, to include joint appointments
 - Repealing Section 75 and other elements of the Health and Social Care Act 2012 and placing a new 'duty to collaborate' on all NHS bodies. This means NHS commissioners will no longer be compelled to put services out to competitive tender, enabling better collaboration and partnership working. It will be easier for organisations to work closely together, for example, through new proposals for joint committees and existing collaborative commissioning arrangements (such as Section 75 of the NHS Act 2006).
 - The formal merger of NHS England and NHS Improvement (commissioning and regulatory arms of the NHS)

- Expanding the power of the Secretary of State (SoS) for Health, enabling the SoS to direct NHS England/Improvement, create new NHS Trusts, intervene in reconfiguration disputes and amend/abolish Arm's Length Bodies (ALBs)
- Giving ministers the power to extend professional regulation over NHS Managers.

2. Advice and Analysis

- 2.1. 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. This is a tight timescale, given the country is still in the midst of the COVID-19 pandemic.
- 2.2. The aim of the proposals set out in the white paper are to establish ICSs in statute. This would make their current informal roles formal. These new organisations will take on strategic responsibilities, control of resources and accountability for NHS performance, in their areas of operation. ICSs are expected to be coterminous with upper tier local authorities.
- 2.3. When the legislation is enacted, the current Kent and Medway ICS, would be the organisation that will oversee the strategic operation of the NHS system serving the Medway population.
- 2.4. The Health and Wellbeing Board (HWB) should note the creation of an Integrated Care System for Kent and Medway, may have quite far-reaching implications for the work of the HWB. The NHS White paper sets out a requirement for all health bodies to abide by both a new duty to collaborate and a triple aim duty which they must all pursue, these are:
 1. better care for all patients
 2. better health and wellbeing for everyone
 3. sustainable use of NHS resources.
- 2.5. In order to achieve these duties, the ICS will be required to take account of the priorities set out in Joint Strategic Needs Assessments and the Joint Health and Wellbeing Strategies as current. The NHS will, however, also be required to develop local plans to tackle health inequalities and support population health management (PHM).
- 2.6. In their new statutory form, ICSs will be made up of two core components. An ICS NHS body and an ICS Health and Care Partnership. In practice the ICS NHS body would represent and be responsible for NHS services and provision, whereas the Health and Care Partnership would be focused on broader issues such as social care, public health and the wider determinants of health. There will need to be good liaison between all stakeholders to ensure alignment of priorities and resources at a system level.
- 2.7. Every ICS NHS body will be required to have a unitary board, which will be directly responsible for the NHS spend and performance of the system.

These boards are expected to include as a minimum, representatives from NHS trusts, general practice, and local authorities. They will also include locally determined representation from other services. For example, community and mental health providers.

- 2.8. The White Paper sets out a range of proposals under the umbrella of 'additional proposals'. These include:
- **Public health** - specific plans are set out to give the Secretary of State the authority to bring in new restrictions on the advertising of high fat, salt, and sugar foods, as well as powers for Ministers to alter food labelling requirements.
 - **Social care** - is recognised as a central pillar of integration, but the specific detail on how social care will be resourced and aligned to ICS transformation is lacking. The paper states that separate proposals on social care reform will be brought forward in 2021. However, a number of operational changes are put forward, including giving the Secretary of State powers to make payments to all social care providers, and broad reforms to provide greater flexibility when discharging patients from a hospital to a care setting for assessment. There is mention of potential regulation and oversight of adult social care.
 - **Professional regulation** - the Government intends to create powers that will enable it to extend the scope of professional regulation to NHS managers and senior leaders in future.
 - **Safety and quality** - the Government wishes to bring forward measures to make the Health Service Safety Investigations Body (HSSIB) a statutory body, to streamline the current regulatory landscape for healthcare professionals, and establish a statutory medical examiner system within the NHS to scrutinise those deaths which do not involve a coroner.

3. Risk Management

- 3.1. The primary risks associated with these proposals relate to the transfer of responsibilities from the Kent and Medway CCG to the new NHS body the Kent and Medway ICS. NHS colleagues have identified this risk and are working through the workforce and other governance measures to ensure there is appropriate mitigation. As the Kent and Medway CCG was recently formed through bringing together 8 organisations into 1, the majority of the workforce and operations issues, will have been addressed.
- 3.2. There are additional risks associated with clinical engagement and oversight of the new NHS body, in particular input from primary care. The NHS is aware of this issue and is currently working with primary care networks (PCNs) to ensure appropriate engagement through the transformation process.
- 3.3. The Board should note the fact that ICSs are coterminous with upper tier local authorities. This means priorities for Medway and Kent populations and related governance for both upper tier Councils, will need to be appropriately

aligned with the new NHS Body. There is currently good collaboration and engagement between Kent County Council and Medway Council and the Kent and Medway ICS. There will be ongoing dialogue to ensure appropriate governance and oversight arrangements are in place by April 2022 and beyond and their solutions and identifying actions that need to be taken and when.

4. Consultation

- 4.1. NHS England undertook a full public consultation on the future of integrated care in November 2020. This White Paper is the Government's response to the findings of that proposal. Locally, the NHS may consult further should there be specific elements of the transformation programme that require public consultation.

5. Financial Implications

- 5.1. There are a number of potential financial implications that arise from the White Paper. The majority are positive in that the primary focus of the transformation is to align all NHS resources to ensure greater efficiency and outcomes for people at the local level. There will however be a need to review specific commissioning arrangements between local authorities and the NHS, for example Section 75 agreements and other jointly commissioned funded contracts, to ensure continuity of service delivery during and after transformation.
- 5.2. The HWB Board should also take note of the Government's intent to publish its long-term strategy for adult social care.

6. Legal Implications

- 6.1. The establishment of the Kent and Medway ICS and transfer of accountability and functions from the Kent and Medway CCG to it, will have implications for governance and oversight by the Council and related statutory committees, including the Health and Wellbeing Board. The key issues relate to amendments to the Health and Social Care Act 2012. Legal Services and Democratic Services colleagues and relevant chief officers, Portfolio Holders and the Leader of the Council are engaged in this process and will ensure any legal issues associated with this transformation are addressed.

7. Recommendation

- 7.1. The Health and Wellbeing Board is asked to note the update presented in the report.

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Appendices

None

Background papers

[NHS White Paper Working together to improve health and care for all](#)