

## Mayor And Cabinet

<b>Report Title</b>	Response from the Healthier Communities Select Committee to the NHS Health White Paper		
<b>Key Decision</b>	No	<b>Item No.</b>	8 (Addendum)
<b>Ward</b>	All		
<b>Contributors</b>	Healthier Communities Select Committee		
<b>Class</b>	Part 1	<b>Date</b>	15 September 2010

### 1. Summary

- 1.1 This report informs the Mayor and Cabinet of the response from the Healthier Communities Select Committee to the NHS White Paper, arising from discussions at the Committee's meeting on 2 September 2010.

### 2. Recommendation

- 2.1 The Mayor is recommended to note the views of the Healthier Communities Select Committee as set out in section four of the report.

### 3. Background

- 3.1 The Constitution of Lewisham Council devolves all statutory powers in relation to the overview and scrutiny of the provision of service by, and performance of, health bodies providing services for local people to the Healthier Communities Select Committee. These functions include all powers given to the Councils Overview and Scrutiny Committee by the Health and Social Care Act 2001, NHS Act 2006, Local Government and Public Involvement in Health Act 2007 and regulations made under that legislation.
- 3.2 The Constitution also devolves all of the Council's Overview and Scrutiny functions in relation to social services provided for those 19 years old or older including, but not limited to, services provided under the Local Authority Social Services Act 1970, National Assistance Act 1948, Mental Health Act 1983, NHS and Community Care Act 1990, Health Act 1999, Health and Social Care act 2001, NHS Act 2006.
- 3.3 As a group of 10 locally elected councillors with the responsibilities outlined above, the Healthier Communities Select Committee is uniquely placed to make an informed response to the Department of Health consultation. Its broad focus across health and social care service and performance in Lewisham ensures members of the Committee have a comprehensive overview of the functionality of the current NHS structure, and the interaction between the local NHS, national NHS, Local Authority and local LINK.
- 3.4 At its meeting on the 2<sup>nd</sup> of September 2010, the Healthier Communities Select Committee considered the proposals outlined in *Equity and Excellence: Liberating the NHS* and its four consultation documents: *Local democratic legitimacy in health*; *Commissioning for patients*; *Transparency in outcomes – a framework for the NHS*; and *Regulating healthcare providers*. To support the development of an informed response, the Committee took evidence from:

- GPs representing Lewisham's Local Medical Committee (LMC) and the Lewisham Primary Care Federation.
- The Lewisham LINK Executive
- The representative of the Chief Executive of NHS Lewisham
- The Executive Director of Community Services in Lewisham
- A representative of University Hospital Lewisham

3.5 The Committee also considered a report (appended to this response) that provided summary information about the impact the involvement of a scrutiny committee, with suitable officer support, has had on health and social care services in Lewisham in recent years.

## 4 Response

4.1 Firstly, the Committee wishes to note that it believes that the major cost and disruption caused by substantial structural changes to the NHS during a period of economic constraint is not the most appropriate way to proceed.

4.2 Secondly, the Committee notes that the White Paper is published in the context of the Coalition Agreement, but some aspects of the Agreement do not appear in the White Paper, and that implementation of some White Paper proposals may be influenced by the Spending Review expected from the Treasury in October 2010.

4.3 The Committee has chosen not to respond to every question from all 4 consultation papers, but rather to focus on the questions for which it considers it has evidence to support a response, and on which it considers it is best placed to respond with regard to relevance to the people of Lewisham. The responses to the questions are recorded below.

### Local democratic legitimacy in health

***Do you agree with the proposal to create a statutory health and wellbeing board or should it be left to local authorities to decide how to take forward joint working arrangements? (Q7)***

***Do you agree that the proposed health and well being board should have the main functions describe in paragraph 30? (Q8)***

***Do you agree that the scrutiny and referral function of the current health OSC should be subsumed within the health and wellbeing board (if boards are created) (Q14)***

***What arrangements should the local authority put in place to ensure that there is effective scrutiny of the health and wellbeing board's functions? To what extent should this be prescribed? (Q16)***

4.4 In considering all questions in relation to the potential role of a Health and Well Being Board and the removal of statutory powers from OSCs, the Committee strongly feels that for accountability and true democratic legitimacy there must continue to be a separation of powers between executive decision makers and the scrutiny function, and that a separate scrutiny function should continue to be required even if a health and wellbeing board is introduced.

4.5 In the local democratic legitimacy in health paper the following is stated in relation to the proposed role of the health and wellbeing board:

35. *We anticipate that the health and wellbeing boards would have a lead role in determining the strategy and allocation of any local application of place-based budgets for health*
39. *The board would include both the relevant GP consortia and representation from the NHS Commissioning Board (where relevant issues are being discussed)*
40. *In addition to the strategic role, at a practical level, health and wellbeing boards could agree joint NHS and social care commissioning of specific services, for example mental health services, including prevention, or agree the allocation and strategy for place-based budgets on cross-cutting health issues. The precise role of place-based budgets should be a decision for the health and wellbeing board in light of local priorities.*
43. *If a health and wellbeing board was created within a local authority, it would have a key new role in promoting joint working, with the aim of making commissioning plans across the NHS, public health and social care coherent, responsive and integrated. It would be able to exercise strategic oversight of health and care services. It would be better equipped to scrutinise these services locally. To avoid duplication, we propose that the statutory functions of the OSC would transfer to the health and wellbeing board.*

- 4.6 It appears to the Committee that the health and wellbeing board would be tasked with making decisions on strategy and allocation of local place-based budgets and would include representatives from commissioning bodies. To provide such a board with statutory scrutiny functions appears to go against the stated principles of accountability and legitimacy, as it would be tasking the same board with both making commissioning and funding decisions, and then scrutinising those decisions.
- 4.7 The paper goes on to state, at paragraph 50, that “a formal health scrutiny function will continue to be important within the local authority, and the local authority will need to assure itself that it has a process in place to adequately scrutinise the functioning of the health and wellbeing board”. The Committee notes the disparity in contained within the proposals and feels that the point raised in paragraph 50 should be noted and the formal scrutiny function with statutory powers retained.
- 4.8 The Committee further feels that primary legislation should continue to allow local Overview and Scrutiny Committees, such as the Healthier Communities Select Committee, to hold statutory scrutiny powers, including a method of veto on commissioning plans. The Committee feel that in regard to newly created GP Consortia, there should also be a formal system of accountability through Overview and Scrutiny.
- 4.9 Specifically in relation to question 7, the Committee believes that, in line with the stated aim to give more power to patients and local communities, each locality should decide on how to take forward joint working arrangements.

***Should local Health Watch take on the wider role outlined in paragraph 17, with responsibility for complaints advocacy and supporting individuals to exercise choice and control?(Q2)***

***What action needs to be taken to ensure that no-one is disadvantaged by the proposals and how do you think they can promote equality of opportunity for all patient, the public and, where appropriate, staff? (Q17)***

- 4.10 The Committee is concerned that the time and other resources that have been spend on building an awareness of Lewisham LINK and its role in increasing local involvement in local health services would be wasted should it be rebranded as “Healthwatch”. The Committee is also concerned that the role of complaints handling is a substantial task that could detract from the core function of patient and public involvement above and beyond formal complaints.
- 4.11 The Committee feels that it is important that where budget deficits are held by Primary Care Trusts, these deficits should not transfer to the newly established GP commissioning bodies.

### **Transparency in outcomes**

***How can we ensure that the NHS Outcomes Framework will deliver more equitable outcomes and contribute to a reduction in health inequalities? (Q3)***

- 4.12 The Committee cautions that not all outcomes are easily measurable, and that some appropriate measures of process can provide a useful proxy indicator for service providers and commissioners in the interim, and therefore careful consideration should be given as to what indicators and performance measures are to be kept and which are to be discontinued.

### **Regulating health care providers**

***Do you believe that the Government should remove the cap on private income of foundation trusts? If not, why and on what practical basis would such control operate (Q1)***

***What changes should be made to legislation to make it easier for foundation trusts to merge with or acquire another foundation trust or NHS trust. Should they also be able to de-merge? (Q4)***

***What action needs to be taken to ensure that no-one is disadvantaged by the proposals, and how do you think they can promote equality of opportunity and outcome for all patients, the public, and where appropriate staff? (Q21)***

- 4.13 The Committee do not believe that the Government should remove the cap on the private income of foundation trusts.
- 4.14 The Committee feel that in principle Foundation Trusts should be able to de-merge.
- 4.15 The Committee have concerns about the possibility that Foundation Trusts would leave the ‘NHS family’ and the subsequent impact this could have on matter such as superannuation schemes.
- 4.16 The Committee would welcome the establishment of co-operative and mutual models as part of future provision of health services.

## **5. Financial Implications**

- 5.1 There are no financial implications arising out of this report.

## **6. Legal Implications**

- 6.1 The Constitution provides for Select Committees to refer reports to the Mayor and Cabinet, who are obliged to consider them.

## **7. Background Documents**

- 7.1 White Paper “Equity and Excellence – Liberating the NHS a Government”  
<http://www.dh.gov.uk/en/Healthcare/LiberatingtheNHS/index.htm>

Transparency in outcomes - a framework for the NHS

[http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_117583](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_117583)

Liberating the NHS: Local democratic legitimacy in health - a consultation on proposals

[http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_117586](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_117586)

Commissioning for patients

[http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_117587](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_117587)

Regulating healthcare providers

[http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_117782](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_117782)

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