Healthier Communities Committee			
Title	Health and Social Care Act and Health scrutiny protocol	**Item No**	7
Contributors	Overview and Scrutiny Manager		
Class	Part 1	**Date**	16 April 2013

1. Purpose of paper

1.1 To advise members of the local implications of the introduction of the Health and Social Care Act (2012) and to invite members to consider any necessary alterations they may wish to make to the Committees Health and Social Care Scrutiny Protocol.

2. Recommendations

2.1 The Committee is asked to:

- note the local organisational changes as a result of the Health and Social Care Act
- note the constitutional changes as a result of the Act
- as a result of the changes outlined, agree that the Chair and officers, in partnership with all relevant local organisations, develop a draft revised protocol for consideration by the Committee at a future meeting.

3. Health and Social Care Act (2012)

3.1 The Health and Social Care Act 2012 (the Act) has redefined the roles of, and relationships between, different sections of the health infrastructure. At a local level this includes the introduction of the Health and Wellbeing Board and changes to the local organisations for commissioning services, changes in public health and changes to structures for public involvement and engagement, and advice and advocacy.

3.2 The changes brought about by the Act result in the abolition of a number of organisations, the creation of a number of new organisations and bodies and a change of responsibilities for some existing organisations. This report aims to briefly outline the new organisations and their roles and responsibilities, making clear the organisations and bodies they have replaced where appropriate.

3.3 The Act establishes health and wellbeing boards as forums where key leaders from the health and care system work together to improve the health and wellbeing of their local population and reduce health inequalities. The Board is intended to have strategic influence over commissioning decisions across health, public health and social care.

3.4 Through undertaking a Joint Strategic Needs Assessment (JSNA), health and wellbeing boards will drive local commissioning of health care, social care and public health and create a more effective and responsive local health and care system. Boards are intended to have democratic legitimacy by involving democratically

elected representatives and patient representatives in commissioning decisions alongside commissioners from across health and social care.

Health and Wellbeing Board

3.5 The Health and Social Care Act requires local authorities to establish a Health and Wellbeing Board. The Board is a committee of the local authority and the Act specifies its minimum membership:

- at least one councillor of the local authority, nominated by the elected Mayor or the executive leader (where executive operating models exist);
- the director of adult social services;
- the director of children's services;
- the director of public health;
- a representative of the Local Healthwatch organisation;
- a representative of each relevant clinical commissioning group and;
- such other persons as the local authority thinks appropriate.

3.6 The Act establishes a duty on the Health and Wellbeing Board to encourage integrated working. The Act requires the responsible local authority and its partner clinical commissioning group(s) to exercise specific functions through the Health and Wellbeing Board, namely:

- Prepare and publish an assessment of relevant needs (JSNA);
- Prepare and publish a strategy for meeting the needs identified in the joint strategic needs assessment (Health and Wellbeing Strategy):
- Have regard to the assessment of need and the joint health and wellbeing strategy in the exercise of their relevant functions

3.7 A local authority may arrange for its Health and Wellbeing Board to exercise any functions that are exercisable by the local authority with the exception of reviewing and scrutinising health services in the local authority's area.

3.8 Where an issue relates to services commissioned by the NHS Commissioning Board, Health and Wellbeing Boards will request, and the NHS Commissioning Board will appoint, a representative to join the board to discuss this issue.

3.9 Two or more health and wellbeing boards may make arrangements for any of their functions to be exercisable jointly, by a joint sub-committee of the boards, and for this sub-committee to advise them on any matter related to the exercise of their functions.

3.10 A Health and Wellbeing Board may, for the purpose of enabling it or assisting it to perform its functions, request information from the local authority or from any person represented on the Health and Wellbeing Board.

NHS Commissioning Board – NHS England

3.11 The Act establishes the NHS Commissioning Board with the mandate of "arranging for the provision of services for the purposes of the health service in England". The Act states that, at the start of each financial year, the health secretary must publish a document known as 'the mandate' within which the Board's objectives are set.

3.12 In setting the objectives the health secretary must consult with the Board itself, the Healthwatch England committee of the Care Quality Commission, and other appropriate persons. The general duties of the Board include:

- Promoting the NHS constitution
- Improving the quality of services

- Promoting autonomy
- Reducing inequalities
- Promoting the involvement of each patient in decisions relating to the prevention or diagnosis of illness or their care
- Enabling patient choice in the services provided to them
- Promoting innovation in the provision of health services including through the provision of prizes at any stage of innovation, including research
- Promoting education and training
- Promoting the integration of health services on the basis that this will improve quality of services, and reduce inequalities in access and outcome of service access
- Regarding the impact of services in certain areas, namely commissioning decisions relating to border areas of Wales and Scotland
- Regarding variation in the provision of health services between the private and public sector

3.13 The NHS Commissioning Board is called NHS England and is responsible for commissioning all primary care, “specialised services”, offender healthcare and some services for members of the armed forces across the country. NHS England is also responsible for commissioning dentistry and pharmacy services.

3.14 “Specialised services” are those services provided in relatively few hospitals, accessed by comparatively small numbers of patients, but with catchment populations of more than one million. These services tend to be located in specialist hospital trusts that can recruit staff with the appropriate expertise and enable them to develop their skills. Specialised services account for approximately 10% of the total NHS budget.

3.15 NHS England is one single organisation but will have 27 area teams as many functions will need to be carried out at a much more local level. Lewisham will work with the London Regional Office of NHS England. The remit of the London regional office of the Commissioning Board will include:

- The Board’s day-to-day relationships with Clinical Commissioning Groups
- The Board’s direct commissioning functions
- The Board’s professional and clinical leadership functions

Clinical Commissioning Groups

3.16 The Act abolishes Primary Care Trusts (PCTs) and Strategic Health Authorities (SHAs) and establishes clinical commissioning groups (CCGs) who are responsible for commissioning local services. The CCGs hold budgets, commission services and are able to reinvest any savings they generate in patient care. The duties of CCGs reflect those of the NHS Commissioning Board. CCG’s are led by local clinicians. In Lewisham the CCG has been operating in shadow form for the last year, alongside the PCT.

3.17 The CCG is responsible for commissioning:

- planned hospital care,
- urgent and emergency care,
- rehabilitation care
- Community health services
- Mental health and learning disability services

3.18 CCGs each have a governing body which must include "health care professionals of a prescribed description", lay persons, and "individuals of any other description which is prescribed". The Act allows CCGs to make arrangements to work together. Such

arrangements allow for the pooling of funds between commissioning groups and for payments to be made through the pooled funds for services.

3.19 The Act specifies that each CCG must prepare a plan setting out how it proposes to exercise its functions. In preparing the plan, the clinical commissioning group must consult the relevant Health and Wellbeing Board about its views on whether the plan takes proper account of the most recent joint health and wellbeing strategy published by the Health and Wellbeing Board.

Commissioning Support Units (CSU)

3.20 Commissioning support units provide practical support and a range of business functions to support CCG's in their role. Lewisham CCG has decided to utilise the support services of the NHS South London Commissioning Support Unit (SLCSU).

Public Health England

3.21 Public Health England is an executive agency of the Department of Health. It takes on the role of the Health Protection agency and a number of other bodies including: National Treatment Agency, Public Health Observatories, UK National Screening Committee and NHS cancer and non-cancer screening programmes, Cancer Registries, Quality Assurance Reference Centres, Strategic Health Authorities, Specialised Commissioners and parts of the Department of Health, including Public Health Marketing.

3.22 The public health services that NHS England will commission directly are:

- The national immunisation programmes.
- The national screening programmes.
- Public health services for offenders in custody.
- Sexual assault referral centres.
- Public health services for children aged 0-5 years (including health visiting, family nurse partnerships, and much of the healthy child programme).
- Child health information systems.

Public Health in Lewisham

3.23 Under the Act, Public Health responsibilities transferred from the NHS, located within PCTs, to Local Authorities. All Public Health staff transferred over to the local authority as of the 1st of April 2013. Public health is concerned with the health of the entire population, rather than the health of individuals, requiring a collective effort; addressing prevention, treatment and care from a population perspective. It is about making sure that services are safe, effective, appropriate and accessible to the whole population and are tackling health inequalities effectively.

Healthwatch England

3.24 Healthwatch England has been established, as a statutory committee of the CQC, and its role is to act as a national consumer champion in relation to health and social care services. Healthwatch England's responsibilities are to:

- provide national leadership, guidance and support by way of advice and assistance to local Healthwatch organisations; with the aim of achieving greater consistency across local Healthwatch organisations, for example through the sharing of best practice
- escalate concerns about health and social care services raised by local Healthwatch, users of service, and members of the public to CQC. CQC is required to respond in writing to advice provided by Healthwatch England
- provide advice and information (which could include recommendations and reports) to the Secretary of State, NHS Commissioning Board, Monitor and

English local authorities. The recipients of Healthwatch England's advice will be required in law to respond to Healthwatch England in writing.

3.25 Healthwatch England is one part of the "Healthwatch network"; the second part of the network are all of the local Healthwatch organisations, with a local Healthwatch to be operating across every local authority in the country.

Healthwatch Lewisham

3.26 Healthwatch Lewisham is the local Healthwatch organisation forming part of the Healthwatch network. Local Authorities were required to tender for a provider of a local healthwatch, which has taken over many of the responsibilities previously executed by the Local Involvement Networks (LINks). Voluntary Action Lewisham were awarded the contract to deliver the Healthwatch service in Lewisham.

3.27 Healthwatch Lewisham will be the local consumer champion for health and social care representing the collective voice of people who use services and the public. It will build up a local picture of community needs, aspirations and assets and the experience of people who use services. Healthwatch Lewisham will:

- have the power to enter and view services.
- influence how services are set up and commissioned by having a seat on the local health and wellbeing board
- produce reports which influence the way services are designed and delivered.
- provide information, advice and support about local services.
- pass information and recommendations to Healthwatch England and the Care Quality Commission.

3.28 Healthwatch Lewisham will build on the work carried out by the Lewisham LINk over recent years.

Monitor

3.29 Monitor is the economic regulator of the NHS and all NHS funded services. Created under Part 3 of the Act, the organisation currently known as the Independent Regulator of NHS Foundation Trusts will continue to exist, but will be known as Monitor. The regulator's main duty will be to ensure that NHS services are economic, efficient and effective - as well as maintaining or improving the quality of services.

3.30 Monitor's role also includes reducing inequalities in both accessing and the outcomes of accessing NHS services. All service providers within the NHS will be required to operate under licence provided by Monitor, unless specifically exempt. Exemption will not be given for the purpose of promoting competition. Monitor will work with the Office of Fair Trading (OFT) to address anti-competitive behaviour and will work with the NHS Commissioning Board to set out guidance on choice and competition.

Status of the Care Quality Commission

3.31 The already established Care Quality Commission (CQC) is distinct from Monitor in that it focuses on quality, and works to ensure the maintenance of standards in health and social care practices. Following changes made through the Act, the CQC will licence NHS and adult social care providers with a view to keeping check on safety and quality levels.

3.32 Inspections will be carried out by the CQC in response to information that it receives through clinical commissioning groups (CCGs), Healthwatch England, and local Healthwatch.

National Trust Development Authority

3.33 The Act abolishes NHS Trusts that are not Foundation Trusts, so from April 2013, the NHS Trust Development Authority (NHS TDA) will provide governance and accountability for NHS Trusts in England that are not yet Foundation Trusts, and will support them in the appropriate delivery of the foundation trust status. There are currently 22 NHS Trusts in London (including the London Ambulance Service) working towards foundation trust status. The NHS TDA will help each NHS Trust secure sustainable, high quality services for the patients and communities they serve.

NHS Property Services Ltd

3.34 NHS Property Services Ltd will play a vital role in the day to day running and management of the NHS primary care estate of around 3,600 NHS facilities, from GP practices to administrative buildings. NHS Property Services Ltd will help to improve the delivery of clinical services and help enhance the experience of NHS patients by being responsible for providing a safe, efficient and well maintained estate, buildings and facilities.

Overview and Scrutiny

3.35 Overview and Scrutiny continues to have a statutory role to act across the whole health economy. Scrutiny has a clear role at every stage of the commissioning cycle and is responsible for holding health decision makers to account, Scrutiny ensures that:

- the planning and delivery of healthcare reflects the views and aspirations of local communities (by scrutiny of JSNA, HWB Strategy, Commissioning Plans & Delivery strategies, structures and governance)
- all sections of a local community have equal access to health services and an equal chance of a successful outcome; (scrutiny of organisations, priorities, funding decisions, service delivery, performance against outcomes)
- proposals for substantial service change are in the best interests of local health services and the community (NHS bodies have a statutory responsibility to consult scrutiny on proposals for substantial developments or variations to the local health service)

3.36 In Lewisham, Health Scrutiny responsibilities continue to be carried out by the Healthier Communities Select Committee. The Terms of reference of the Committee were amended at the Council AGM in March to include responsibility for:

- Reviewing and scrutinising the decisions and actions of the Health and Wellbeing Board
- To received referrals from the Healthwatch and to consider whether to make any report/recommendation in relation to such referral (unless the referral relates solely to health services for those aged under 10 years of age, in which case the referral from the Healthwatch should be referred to the CYP Select Committee

4. Health Scrutiny Protocol

4.1 In 2008, the Healthier Communities Select Committee developed and agreed a protocol with local commissioners and providers as to how the various bodies would interact with the Committee as it exercised its statutory duties (appendix A). The protocol includes specific agreement about regular and routine interaction, how potential services variations would be dealt with and how interaction with the LINk would also be maintained, in part through the attendance of two LINk members at every HCSC meeting.

4.2 The protocol has led to closer working relationships with local provider trusts and commissioners over the last 4 years and much earlier engagement with proposed

service developments, as well as collective agreement on an agreed template for assessing whether a proposed variation might be considered substantial by the Committee. Regular attendance at the Committee meetings and routine engagement with the Chair has benefitted both the Committee and the local organisations by the effective communication it supports, enabling interaction to be targeted and appropriate.

4.3 Now that the PCT and the LINk have been abolished and replaced by the CCG and Healthwatch respectively, and the Health and Wellbeing Board has been created, the protocol is outdated and does not cover interaction with the "new" local organisations and does not reflect the current legislative and constitutional framework.

4.4 It is proposed that the Committee consider updating the protocol, in discussion with local commissioners and providers, to discuss and agree together how interaction between the various organisations and the Committee can continue to be effectively managed and reflected in a revised protocol.

4.5 It is suggested that the existing signatories of the protocol, Lewisham Healthcare NHS Trust and South London and Maudsley (SLaM). are consulted with regarding an updated protocol, as well as the CCG, Health and Wellbeing Board, Healthwatch and appropriate senior Council officers.

5. Further implications

5.1 There are no legal, financial, equalities or crime & disorder implications resulting from the implementation of the recommendation in this report.