

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS

1. Meeting:	Adult Services and Health Scrutiny Panel
2. Date:	10 February 2011
3. Title:	2011 Health and Social Care Bill: Summary
4. Directorate:	Chief Executive's

5. Summary

The Health and Social Care Bill was introduced into Parliament on 19 January 2011.

The Bill takes forward the areas of Equity and Excellence: Liberating the NHS (July 2010) and the subsequent Government response Liberating the NHS: legislative framework and next steps (December 2010), which require primary legislation.

This report provides a summary of the legislation and main implications.

6. Recommendations

That the Adult Services and Health Scrutiny Panel:

- **Note and discuss the implications arising from the Health and Social Care Bill**

7. Proposals and details

The Health and Social Care Bill is part of the Government's vision to modernise the NHS so that it is built around patients, led by health professionals and focused on delivering world-class healthcare outcomes.

It also includes provision to strengthen public health services and reform the Department's arm's length bodies.

The Bill contains provisions covering five themes:

- strengthening commissioning of NHS services
- increasing democratic accountability and public voice
- liberating provision of NHS services
- strengthening public health services
- reforming health and care arm's-length bodies

Summary of Bill proposals, listed by section of the 2011 Bill:

Section 8: Duties as to improvement of public health

Updates the 2006 Act so that local authorities must take steps to improve health, and the Bill sets out example steps that may be taken

Bill Text for Section 8

(3) The steps that may be taken under subsection (1) or (2) include—

- (a) providing information and advice;
- (b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
- (c) providing services or facilities for the prevention, diagnosis or treatment of illness;
- (d) providing financial incentives to encourage individuals to adopt healthier lifestyles;
- (e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
- (f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
- (g) making available the services of any person or any facilities.

(4) The steps that may be taken under subsection (1) also include providing grants or loans (on such terms as the local authority considers appropriate).

Section 13: Other services etc. provided as part of the health service

Updates the 2006 Act so that local authorities must take on the formerly Secretary of State (SoS) responsibility for medical and dental inspection and treatment of pupils at schools maintained by the local authority. The local authority may arrange for medical and dental treatment and inspection of pupils in other non-school forms of education provision, and in non-local authority maintained schools. The local authority may provide for weighing and measurement of junior pupils and children in childcare.

Also updates the 2006 Act so that a local authority may conduct, commission or assist with research connected with the exercise of its functions in relation to the health service, including obtaining data/information and funding researchers

Section 14 Regulations as to the exercise by local authorities of certain public health functions

Updates the 2006 Act so that the SoS can make regulations to require local authorities to exercise the SoS's health protection functions. The SoS can also make regulations to prescribe steps to be taken in relation to local authorities' own public health functions (e.g. those updated by section 8 and 13 of the 2011 Bill)

If regulations for health protection are made, the SoS can still him/herself take any steps required of local authorities

Section 18: Exercise of public health functions of the Secretary of State

Updates the 2006 Act so that SoS may arrange for local authorities (and/or NHS commissioners) to exercise any of the public health functions of the SoS. Terms may be agreed in relation to this, including for payment.

Section 19: The NHS Commissioning Board: further provision

Updates the 2006 Act so that the national commissioning board must encourage commissioning consortia to work closely with local authorities in arranging provision of services, particularly through section 75 agreements

NB this goes beyond public health services, but is relevant as ph services may be one such area where close working is needed

Section 22 Commissioning consortia: general duties etc.

Updates the 2006 Act so that commissioning consortia must consult with their relevant HWB/s on a commissioning plan, in particular whether said commissioning plan takes into account the most recent joint health and wellbeing strategy. The HWB must give an opinion to the consortia and may give its opinion to the National Commissioning Board

Relevant HWBs for a consortium are those whose areas contain all or part of the consortium area, so a consortium that overlaps HWB boundaries will have to consult with more than one HWB.

Section 25: Other health service functions of local authorities under the 2006 Act

Updates the 2006 Act so that the local authority takes on PCT functions for dental public health, along with flexibilities for discharging those functions through arrangements with other local authorities or other bodies

Local authorities must also work jointly with the prison service in relation to exercise of the local authority and prison service functions relating to health

Section 26: Appointment of directors of public health

The 2006 Act is updated so that each local authority must jointly appoint a DPH, who will be statutorily responsible for the public health functions of the local authority as set out in other legislation (including the 2006 Act as amended by this Bill). Provision is made for SoS to direct a local authority to review and investigate the performance of the DPH in relation to certain functions, but there does not appear to be power for SoS to order the dismissal of a DPH – SoS may write to local authorities to suggest steps to be taken, but the local authority is only obliged to consider these. Local authorities must consult with the SoS before terminating a DPH appointment.

Bill Text for Section 26

(1) Each local authority must, acting jointly with the Secretary of State, appoint an individual to have responsibility for —

(a) the exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1,

(b) the exercise by the authority of its functions by virtue of section 6C,

(c) anything done by the authority in pursuance of arrangements under section 7A,

(d) the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health,

(e) the functions of the authority under section 325 of the Criminal Justice Act 2003, and

(f) such other functions relating to public health as may be prescribed.

(2) The individual so appointed is to be an officer of the local authority and is to be known as its director of public health.

(3) Subsection (4) applies if the Secretary of State—

(a) considers that the director has failed or might have failed to discharge (or to discharge properly) the responsibilities of the director under—

(i) subsection (1)(b), or

(ii) subsection (1)(c) where the arrangements relate to the Secretary of State's functions under section 2A, and

(b) has consulted the local authority.

(4) The Secretary of State may direct the local authority to—

(a) review how the director has discharged the responsibilities mentioned in subsection (3)(a);

(b) investigate whether the director has failed to discharge (or to discharge properly) those responsibilities;

(c) consider taking any steps specified in the direction;

(d) report to the Secretary of State on the action it has taken in pursuance of a direction given under any of the preceding paragraphs.

(5) A local authority may terminate the appointment of its director of public health.

(6) Before terminating the appointment of its director of public health, a local authority must consult the Secretary of State.

Section 27 Exercise of public health functions of local authorities

Updates the 2006 Act so that local authorities must regard SoS publications relating to the local authorities' public health functions as set out in the amended 2006 Act, other legislation and any other prescribed public health functions. The DPH must prepare and the local authority publish an annual report on the health of the population.

Section 42 Charges in respect of certain public health functions

Updates the 2006 Act to allow the SoS to make charges relating to steps taken in relation to the SoS's duty for health protection, including where a local authority takes steps if required to by the SoS. Charges can also be made by SoS for steps taken by the local authority in relation to health improvement.

Section 50 Co-operation with bodies exercising functions in relation to public health

Updates the 2006 Act to provide a general mutual duty of co-operation between SoS and any other bodies that exercise functions similar to the SoS's health protection functions. Charges can be applied by whichever party requires the co-operation of the other.

Section 167 Establishment and constitution

Updates the Local Government and Public Involvement in Health Act 2007 and other legislation to require setting up of local Healthwatch, overwriting previous requirements for local involvement networks.

Section 170 Independent advocacy services

Updates the Local Government and Public Involvement in Health Act 2007 to require each local authority to set up independent advocacy services for health services, which can be but do not have to be provided through local Healthwatch.

Section 176 Joint strategic needs assessments

Updates the Local Government and Public Involvement in Health Act 2007 to bring commissioning consortia into the role formerly held by PCTs in relation to JSNA, working with their respective responsible local authorities.

Section 177 Joint health and wellbeing strategies

Updates the Local Government and Public Involvement in Health Act 2007 so that local authorities and commissioning consortia partners must prepare local health and wellbeing strategies. In particular must consider the merits of using Section 75 arrangements and may include views on how 'health-related services' could integrate with health and social care services. Health related services are those services that impact on health, but are not services provided by the health service.

Places a duty on local authorities and commissioning consortia to have regard to JSNA and JHWS when exercising relevant functions – i.e. those functions that meet or affect needs in the JSNA.

Section 178 Establishment of Health and Wellbeing Boards

Mandates the establishment by a local authority of a Health and Wellbeing Board for its area. Prescribes a minimum membership including one nominated councillor, DASS, DPH, DCS, local healthwatch, a relevant person for each commissioning consortia (one or more consortia can share a relevant person if the HWB agrees). Other membership is at the discretion of the local authority, in consultation with the rest of the HWB. Commissioning Consortia are under a duty to co-operate with the HWB.

Section 179 Duty to encourage integrated working

A Health and Wellbeing Board must encourage integrated working in the provision of health or social care services. In particular supporting section 75 arrangements. HWB may also encourage providers to work jointly.

Section 180 Other functions of Health and Wellbeing Boards

States that the JSNA and JHWS functions of a local authority and its partner commissioning consortia are to be exercised by the HWB. Other local authority functions may also be discharged by the HWB if the local authority so wishes.

Section 182 Discharge of functions of Health and Wellbeing Boards

Provides flexibility for joint working between HWBs, including setting up sub committees between HWBs.

Section 183 Supply of information to Health and Wellbeing Boards

HWBs may request information from its local authority and others represented on the Board. Requests must be relevant to the HWB functions, and must be complied with.

Section 190 Pharmaceutical needs assessments

Updates the 2006 Act so that HWBs must carry out former PCT functions for pharmaceutical needs assessment, in accordance with regulations. Redefines

'Health Services' for the purposes of the 2006 Act to not include pharmaceutical services.

8. Finance

From April 2013, Public Health England will allocate ring-fenced budgets, weighted for inequalities, to upper-tier and unitary authorities in local government. Shadow allocations will be issued to LAs in 2012/13, providing an opportunity for planning.

8.1 Health premium

Building on the baseline allocation, LAs will receive an incentive payment, or 'health premium', that will depend on the progress made in improving the health of the local population and reducing health inequalities, based on elements of the Public Health Outcomes Framework.

The premium will be simple and driven by a formula developed with key partners, representatives of local government, public health experts and academic

9. Risks and Uncertainties

Legislation is subject to Royal Assent through Parliament.

10. Policy and Performance Agenda Implications

Further consultation is taking place on the proposed public health outcomes framework and funding and commissioning of services. See appendix A and B for questions.

11. Background Papers and Consultation

2011 Health and Social Care Bill

Healthy Lives, Healthy People: strategy for public health in England (2010)

Healthy Lives, Healthy People: Transparency in outcomes consultation document

Healthy Lives, Healthy People: consultation on the funding and commissioning routes for public health

12 Contact

Kate Taylor

Policy and Scrutiny Officer

Chief Executive's

Kate.taylor@rotherham.gov.uk