

<b>Local Members Interest</b>
N/A

## **Cabinet – Wednesday 21 April 2021**

### **Integration and Innovation: Working Together to Improve Health and Social Care for All**

*HM Government White Paper and Implications for Staffordshire County Council*

#### **Recommendations of the Cabinet Member for Health, Care and Wellbeing**

I recommend that Cabinet:

- a. Note the legislative proposals set out in the White Paper and the attendant opportunities and risks.
- b. Begin preparing to implement the proposals in anticipation that they will become law.
- c. Seek opportunities to influence the development of the enhanced assurance framework.

#### **Report Summary:**

HM Government on 11 February 2021 published a White Paper *Integration and innovation: working together to improve health and social care for all*. This sets out legislative proposals for a Health and Care Bill, expected later in the year.

The proposals include changes to NHS governance, arrangements for collaboration between the NHS and local authorities, and oversight of local authority adult social care functions.

This report summarises key aspects of these proposals, and the opportunities and risks they present to the Council.

#### **Report of the Director of Health and Care**

#### **Reasons for Recommendations:**

1. HM Government on 11 February 2021 published a White Paper *Integration and innovation: working together to improve health and social care for all*. This sets out legislative proposals for a Health and Care Bill, expected later in the year. The proposals seek to build on the collaboration between health and social care during the Covid pandemic and aim to:
  - a. Increase integration within the NHS and between the NHS and local authorities.
  - b. Remove much of the transactional bureaucracy within the NHS that has arisen from the 'commissioner-provider' approach over the last eight years.
  - c. Ensure that the NHS is accountable to Ministers and develop enhanced assurance for adult social care.

2. The proposals are set out in four themes:
  - a. Working together and supporting integration.
  - b. Reducing bureaucracy.
  - c. Enhancing public confidence and accountability.
  - d. Additional proposals.

### **Working together and supporting integration**

3. The White Paper proposes legislation requiring every part of England to be covered by a statutory integrated care system (ICS) serving a population of roughly one million people. The ICS would include:
  - a. **An ICS NHS Body.** These would replace Clinical Commissioning Groups and take on some of the functions currently carried out by NHS England. They would receive a financial allocation from NHS England based on the health care needs of their populations and would have a duty to ensure financial balance. Their responsibilities would be similar to the former Primary Care Trusts, albeit for a larger population, including to:
    - i. Develop a plan to meet the health care needs of their population.
    - ii. Develop a capital plan for the NHS providers within their geography.
    - iii. Secure the provision of health services to meet the needs of the population.

ICS NHS bodies would not have the power to direct NHS Trusts, who would remain autonomous legal entities. They would have a Board with a Chair, Chief Executive Officer, representatives from NHS trusts, general practice, and local authorities, including a more clearly defined role for adult social care.
  - b. **An ICS Health and Care Partnership,** bringing together the NHS, local authorities and other partners. The proposed legal basis for these entities is not yet clear. Their role would be to promote partnership arrangements, and develop a plan to address the health care, social care and public health needs of the population. Each ICS NHS Body and local authority would have to give regard to this plan, however the ICS Health and Care Partnership would not be able to impose binding arrangements on any organisation.
4. ICSs would be underpinned by a duty to collaborate on the NHS and local authorities, as well as a 'triple aim' for ICS NHS bodies and NHS Trusts requiring them to pursue the three aims of: better health and wellbeing for everyone; better quality of health services for all individuals; and sustainable use of NHS resources. The NHS would also be given flexibilities to establish joint committees and make joint appointments between ICS NHS bodies, NHS Trusts and local authorities, as well as to allow joint commissioning between ICS NHS bodies, between ICS NHS bodies and NHS England, and between ICS NHS bodies and local authorities. Health and Wellbeing Boards would remain in place with responsibilities to produce a Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy, to which both ICS NHS Bodies and local authorities would continue to give regard.

5. In the interim to these proposals becoming law, the NHS locally has an ICS development plan. This includes:
  - a. Merger of the Clinical Commissioning Groups (CCGs) to establish a single CCG for Staffordshire and Stoke on Trent, which will be referred to as an NHS 'Strategic Commissioner'.
  - b. Development of three Integrated Care Partnerships, which are collaborations of the NHS Trusts serving the North, South East and South West of Staffordshire and Stoke on Trent.
  - c. Development of 23 Primary Care Networks.
6. The development of ICS offers an opportunity for even greater collaboration between the Council and the NHS to continue to integrate and improve NHS and adult social care services. There are some risks - principally:
  - a. That these new arrangements confuse accountability and authority: the Council would retain the statutory accountability and authority for public health and adult social care. We have had assurances from the local NHS that this is understood and will need to ensure that this is clear to the public.
  - b. That the new arrangements lead to a proliferation of governance. The Council will focus on working with the NHS on service improvement programmes that add tangible value to the lives of residents.

### **Reducing Bureaucracy**

7. The White Paper includes proposals to remove the NHS from the oversight of the Competition and Markets Authority and make procurement of health services optional rather than mandated. ICS NHS bodies and NHS Trusts would be able to use the Tariff flexibly in making payments for NHS services. The Secretary of State would be given the power to create new NHS Trusts, as well as the power to make payments directly to social care providers.

### **Enhancing public confidence and accountability**

8. The White Paper includes proposals to merge NHS England, Monitor and the NHS Trust Development Authority (the latter two currently operating as NHS Improvement) to form a single organisation called NHS England. The Secretary of State would continue to set a mandate for NHS England, with the flexibility for this to be over more than one year. The Secretary of State would also be given a new power of direction and intervention in NHS England, and in addition the power to intervene in local reconfiguration decisions.
9. There are also proposals for an enhanced assurance framework to provide a greater level of oversight of adult social care. This would include data collection to improve information about the functioning of the sector, as well as a new duty for the Care Quality Commission (CQC) to assess local authorities' delivery of their adult social care duties. Linked to this new duty would be a new power for the Secretary of State to intervene where it is considered that a local authority is failing to meet their duties. Any intervention by the Secretary of State would be

proportionate to the issues identified and taken as a final step in exceptional circumstances when help and support options have been exhausted.

10. The enhanced assurance framework is a potential opportunity for the Council if done well. More comprehensive and accurate data to allow benchmarking with other local authorities could contribute to improvement of our own services. An independent external view from the CQC could build on the West Midlands ADASS peer challenge and provide us with a source of insight and recommendations for improvement. The CQC would need to ensure a consensual and facilitative approach based on recognising strengths and highlighting opportunities for improvement, rather than a more traditional inspection focused on making a judgement. Cabinet is recommended to seek to influence the development of the enhanced assurance framework to ensure that it is valid and proportionate.

### **Additional Proposals**

11. The White Paper includes proposals for a legal framework for a 'Discharge to Assess' model of hospital discharge whereby NHS Continuing Health Care (CHC) and NHS Funded Nursing Care (FNC) assessments, and Care Act assessments, can take place after an individual has been discharged from acute care. This would replace the existing legal requirement for all assessments to take place prior to discharge. Staffordshire already has a 'Discharge to Assess' model in place and putting this onto a proper legal framework is an opportunity to be welcomed.
12. There are also proposals to reconfirm the legal basis of the Better Care Fund, and change the legal functioning of the Better Care Fund. This is described as a '*technical change*', that '*will not have any impact on the function, purpose or policy intention for the fund*'. The Council receives £23m income annually from the NHS through the Better Care Fund to fund adult social care services in support of the NHS. We will need to analyse the Bill carefully to ensure that these changes do not present a risk to this income.
13. There are also proposals to amend professional regulation and to amend the Coroners and Justice Act 2009 to allow for NHS organisations to appoint Medical Examiners who would scrutinise those deaths not subject to a coroner's to help understand the cause of death, increase transparency for the bereaved and enhance the accuracy of mortality statistics.
14. In addition there are proposals on public health. The Secretary of State would be given a new power to require NHS England to discharge retain public health functions. Responsibility for initiating proposals for new schemes for fluoridation of water in England would move from local authorities to HM government. The Food Safety Act 1990 would be amended to give allow ministers to introduce new strengthened labelling requirements that best meet the needs of the consumer to make more informed, healthier choices. These are generally to be welcomed as they should help to address some of the underlying causes of ill health including obesity.
15. Finally the White Paper signals future proposals including:

- a. For the sustainable funding of adult social care.
- b. For the future design of the public health system, including the creation of the National Institute for Health Protection (NIHP).
- c. To bring the Mental Health Act up to date, as set out in a previous White Paper.

## **Legal Implications**

16. As and when the proposals set out in the White Paper become law they would have the following legal implications relevant to the Council:
  - a. A duty to collaborate with the NHS.
  - b. Involvement on the Board of the ICS NHS body.
  - c. Involvement in an ICS Health and Care Partnership.
  - d. That the Council would have to give regard to the plan to address the health, social care and public health needs of the population produced by the ICS Health and Care Partnership.
  - e. That the Council would be subject to the new enhanced assurance framework for adults social care.
17. Cabinet is recommended to begin preparing to implement the proposals in anticipation that they will become law.

## **Resource and Value for Money Implications**

18. The White Paper promises future proposals on sustainable funding of adult social care. More immediately the proposals include changing the legal functioning of the Better Care Fund, and the Council will need to analyse the Bill carefully to ensure that these changes do not present a risk to the £23m income received annually from the NHS.

## **List of Background Documents/Appendices:**

*Integration and innovation: working together to improve health and social care for all.* HM Government. 11 February 2021. [Integration and innovation: working together to improve health and social care for all \(HTML version\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/91221/integration-and-innovation-working-together-to-improve-health-and-social-care-for-all-html-version.pdf)

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