TELFORD & WREKIN COUNCIL

CABINET 22 DECEMBER 2011

NHS TRANSFORMATION – IMPLICATIONS FOR T&W COUNCIL

REPORT OF HEAD OF SERVICE - SOCIAL CARE SPECIALIST

PART A) – SUMMARY REPORT

1.0 SUMMARY OF MAIN PROPOSALS

1.1 This report considers the implications of health transformation and the Health & Social Care Bill for local NHS services, for the Council in respect of new statutory responsibilities and for joint working with the NHS.

1.2 The report highlights the areas where significant decisions and actions will be required as a result of the transformation. It suggests that T&W Council and T&W Clinical Commissioning Group (CCG) work towards a shared vision of commissioning and delivery of health and social care services that is based first and foremost on the principle of local organisation (T&W specific) and service delivery wherever possible.

2.0 RECOMMENDATIONS

2.1 Agree with T&W CCG as matter of urgency a strategic direction of travel for commissioning and integration of operational health and social care services, taking the opportunity to develop a more fully integrated model of local commissioning and the support arrangements to underpin it.

2.2 Ensure a robust Shadow Health & Wellbeing Board and Strategy is in place from April 2012, with strong Clinical Commissioning Group and Council representation alongside other key stakeholders. This will drive integrated key strategic decisions about health and social care provision from this date, based on the priorities emerging from the Health & Wellbeing Strategy.

2.3 Agree with T&W PCT and the Clinical Commissioning Group, how we plan to manage local Public Health (PH) responsibilities in shadow form from April 2012 as we develop a sustainable operational structure including PH functions within the Council over the next year.

2.4 Recognise that the Local Involvement Network (LINk) host contract will expire on the 31 March 2012 and that interim support arrangements will need to be discussed with LINk.

2.5 Agree a specification for each of the HealthWatch functions by 31 January 2012 with a view to commencing the process to secure a preferred provider of the HealthWatch service, which may involve a tendering process (in line with co-operative council principles) by the end of July 2012 with a start date of 1 October 2012 and delegate responsibility to the Head of Care & Support in consultation with the Lead Cabinet member and the Head of Governance to award the contract.

3.0	**SUMMARY IMPACT ASSESSMENT**	
COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Vulnerable children, young people and adults are safeguarded from harm and neglect; Even more children and young people are on the path to success in adult life through the provision of good quality education, training and jobs; Improved health which enables people to live active, positive and independent lives;
	Will the proposals impact on specific groups of people?	
	No	*Borough Wide*
DELIVERY DATE	*April 2012 – April 2013*	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	The future funding framework for the Health and Care Economy in Telford and Wrekin, and the implications for the Council within that framework will be inextricably linked to decisions made within the Health and Wellbeing Board. It will be a key role of the Board to drive more integrated prioritised deployment of Health and Care resources under pressure from government funding cuts.
		The Government is due to publish the shadow Public Health Grant allocations for 2012/13 shortly. These ring fenced resources are designed to meet the Public Health responsibility transferred from the PCT to the Council to operate from 2013/14 but will be top sliced for funding diverted to Public Health England.
		Further financial implications will not be known

		until more detailed work is undertaken on the arrangements for the transfer of Public Health grant and details of required performance outcomes are known. In respect of the absorption of LINk responsibilities by Health Watch, the Council currently receives funding through the formula grant to commission host support for our local LINk provided by Staffordshire University. This funding will continue and the Department of Health will allocate additional funding to local authorities for the expanded HealthWatch functions through the Learning Disabilities & Health Reform Grant from monies currently given to the NHS to fund their Patient Advice and Liaison Services (PALS) and Independent Complaints Advocacy Service (ICAS). Exact amounts of additional funding are still to be decided but will need to be taken into account within the commissioning specification

LEGAL ISSUES	Yes	The Health & Social Care Bill was introduced into Parliament on 19th January 2011. It is currently at Committee stage in the House of Lords and is due to next be considered on 22nd November 2011. The Bill is divided into 12 Parts (comprising 303 clauses) and 24 Schedules. When in force, it will make changes to a number of existing Acts, primarily the National Health Service Act 2006 (the 2006 Act). The Bill gives effect to the policies that required primary legislation as set out in the White Paper "Equity and Excellence: Liberating the NHS" published in July 2010 and the Government response "Liberating the NHS: legislative framework and next steps" (December 2010). The 5 main themes of the Bill are strengthening commissioning of NHS services; increasing democratic accountability and public voice; liberating provision of NHS services; strengthening public health services; and reforming health and care arm's - length bodies. Part 1 of the Bill sets out an overview and description of the provision of health services in England. Clauses 6 and 20 set out the functions of the NHS Commissioning Board. The NHS Outcomes Framework will set out the outcomes for which the Secretary of State for Health is accountable to Parliament, and the NHS Commissioning Board is, in turn, accountable to the Secretary of State. Clauses 7 and 22-25 cover the CCGs and their general functions. Clauses 10 to 12 set out the duties and powers of CCGs and the NHS Commissioning Board as to commissioning certain health services. Clauses 8 to 9 and 26 to 29 cover the amendments to Secretary of State and Local Authority functions in relation to public health, including dental public health and the appointment of a Director of Public Health jointly with the Secretary of State.
		Part 3 of the Bill covers the regulation of health and adult social care services, with the relevant provisions for Monitor (including power to give it

		functions relating to adult social care services), competition, licensing and national pricing for health care services through the national tariff. Part 4 of the Bill deals with NHS foundation trusts & NHS trusts, their governance, status, functions, finance, mergers acquisitions, separations, dissolutions and abolition. Part 5 of the Bill covers Public Involvement and Local Government, with relevant provisions for Healthwatch, scrutiny functions of Local Authorities and amendments to the 2006 Act and Local Government and Public Involvement in Health Act 2007. Schedule 15 of the Bill indicates that there will be regulations made specifying the membership of Local Healthwatch organisations and each one will be a body corporate. Part 14 of The Local Government and Public Involvement in Health Act 2007 and the Local Involvement Networks Regulations 2008 currently govern the LINk. The 2007 Act will be amended by Schedule 14 of the Bill. Clauses 191-196 deal with the establishment, functions and required membership of Health and Wellbeing Boards. The aim is to bring together local councillors with the key NHS, public health and social care leaders in each local authority area to work in partnership. Health and Wellbeing Boards will lead on joint strategic needs assessments (JSNA), develop a joint health and wellbeing strategy for the area, represent the views of local people and promote joined-up commissioning. A statutory duty will be placed on CCGs, local authorities and the NHS Commissioning Board to have regard to both the JSNA and joint health and wellbeing strategy in discharging their commissioning functions. Local authorities will be able to delegate functions to Health and Wellbeing Boards..
		Clause 294 deals with the ability of the Secretary of State to make property or staff transfer schemes consequential upon the establishment or abolition of a body by the Bill, or the modification of the functions of a body or other person by or under the Bill

OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Further background documents published on the on the Department of Health website are : Health and Social Care Bill 2011: Memorandum for the House of Lords Delegated Powers and Regulatory Reform Committee" was updated on 12th September 2011. This summarises the powers of the Secretary of State to make delegated legislation in the Bill ,which is also set out at Clause 298.. - Combined impact assessments revised and published on 8th September 2011, to reflect changes made to the Bill during its passage through the House of Commons - A Keeling Schedule , showing all amendments to the NHS Act 2006 arising from the Bill - A programme of Accelerated Learning Sets,which was launched on 15th November 2011, to help emerging Health and Wellbeing Boards to work together on the challenges that face them on their way to being statutorily running from April 2013. The progress of the Bill, its Royal Assent in due course and the publication of Regulations under the Act , together with any further guidance issued by the Department of Health will need to be reviewed and will continue to direct and shape the further work required by the Local Authority. Such transformational change inevitably will have significant risks for the commissioning and delivery of health and care services at a local level. However the recommendations set out in this report can effectively mitigate these risks and provide opportunities to provide better outcomes for local people
IMPACT ON SPECIFIC WARDS	No	*Borough-wide impact.*

PART B) – ADDITIONAL INFORMATION

3.0 REPORT SUMMARY

3.1 The White Paper, "Equity and Excellence: Liberating the NHS" published in 2010 set out the Government's vision for the future of a transformed NHS. Since then there have been numerous public consultations and a listening exercise on specific aspects of transformation that have helped

shape the Health & Social Care Bill which is currently passing through the parliamentary process. The Bill assuming it becomes law will put in place the statutory requirements for such large scale change. There has been opposition to some of the proposals and elements of the Bill have been changed through the process and we still await its final passage. However the Department of Health (DH) are recommending to PCTs, Clinical Commissioning Groups (CCGs) and Local Authorities (LA) that they should plan on the basis of full implementation from 1st April 2013, with shadow arrangements in place from April 2012. The Bill re-emphasises the importance of collaboration and integration of health and care at a local authority level.

3.2 The main provisions in the Bill can be broken down in to the following areas:

3.3 **<u>Market Based reforms</u> – the economic regulator (Monitor), choice and competition & NHS Provider reforms – foundation trusts, the failure regime for providers and continuity of services and social enterprises.**

3.3.1 The Bill goes further than previous reforms in applying market based principles to the provision of health care. The aim is to increase diversity of supply, promote competition and increase choice for patients by establishing Monitor as an economic regulator, extending choice of provider to a wider range of services and allowing providers from all sectors to compete on an equal footing.

3.3.2 In addition innovation will be encouraged by granting health trusts more autonomy by building on the last government's process requiring all NHS trusts to become Foundation Trusts. There is also some encouragement to health organisations to become social enterprises and adopt employee ownership models. Amendments to the Bill at Report stage provide a framework to deal with inefficient or poor quality providers but ensuring continuity of essential services to address concerns about the risks associated with the market.

Implication for the Council

3.3.3 Market based reforms will have no direct implications for the Council but NHS services will increasingly all be delivered by large Foundation Trusts (FTs) with a possible impact on working relationships with the Council and any integrated services. If our local health trusts, either the acute hospitals (SaTH) or the community service provider, Shropshire Community Health Trust (SCT) fail to achieve FT status by 2014 because of their financial or service issues then their services could be taken over by FTs from outside our area and moved out of county. Mental Health services are already provided by the South Staffordshire & Shropshire NHS Healthcare FT.

3.4 **<u>System reform</u> – integration, structural changes, productivity improvements and changes already in progress**

3.4.1 The Bill will confirm a radical re-organisation of the NHS aimed at devolving responsibility to clinicians, cutting management costs and reducing national political involvement in the health system. The NHS Commissioning Board (shadow form from October 2011) will assume responsibility for the operational management of the NHS with PCTs and Strategic Health Authorities (SHA) abolished from April 2013. PCT Boards and executive teams are currently being consolidated into PCT Clusters as an interim measure to hold the ring through the changes and will become the local arms of the NHS Commissioning Board in 2013. Strategic Health Authorities (SHAs) have also been consolidated into 4 national clusters for the same reasons. The NHS Commissioning Board will have commissioning responsibilities for functions that are not deemed to be the responsibility of the local CCGs.

3.4.2 Integration is one of the principles at the heart of the reforms. The NHS Commissioning Board, Monitor and CCGs will have a duty to promote it. CCGs and Health & Wellbeing Boards will also have a duty to promote integration between health, social care and health related services such as PH.

3.4.3 Whilst all this change is happening in the system the NHS "top priority" according to David Nicholson is the need to find £20billion in productivity savings by 2015.

Implications for the Council

3.4.4 In this interim period the Council increasingly has to relate to NHS structures which are gearing to look across a wider area rather than focussing on T&W health needs. Locally this means our PCT has now been absorbed into the West Mercia cluster including Shropshire, Herefordshire and Worcestershire PCTs as well as our own. The formation of the West Mercia PCT cluster has seen a shift in control towards the Worcestershire/Herefordshire axis while now being part of the Midlands/East of England SHA cluster has seen a further dilution of local focus. These clusters are likely to be the forerunners of the regional presence of the National Commissioning Boards who will assume some commissioning functions from local PCTs.

3.4.5 On top of this there has been a move over the last few months within the NHS to take a Shropshire wide health economy view across our 2 PCT areas with an increasingly Shropshire PCT/CCG weighted approach.

3.4.6 It is therefore crucial that T&W Council forms close working links with T&W CCG and wherever possible develop a common vision and joint

approach as a matter of urgency if we are to keep a focus on the health issues of our local area. Key decisions over the future local arrangements are being made now and it is important they are focussed on the best health and care outcomes for local people in the medium to long term rather than just the immediate issues of PCT staffing etc. though these obviously still have to be resolved.

3.4.7 In respect of integration, the Council needs to develop with the CCG a vision in respect of not only the integration of commissioning and support services but the potential for further integration of health and social care operational services on a local T&W basis.

3.4.8 The NHS 'productivity' agenda which requires real terms savings rising to over £50m in the T&W area over the next 3 years has implications for local people particularly when set alongside the Council's own real terms savings of around £40m as a result of government grant cuts. It is important that all players in the Health & Care economy consider the knock on consequences of their responses to those financial pressures across that economy including partners and local people. Achieving savings by moving costs around to other public sector partners does nothing to achieve the overall savings that health and care must deliver between them as has been happening with Continuing Health Care costs. While the PCT has understandably reviewed an area where its spend appeared out of line compared with national averages it is important that the difficult local decisions on cutbacks in both the NHS and Council are taken together to ensure the reduced resources we will have between us, are most effectively deployed. The shift of CHC costs has raised the cost of care packages to the Council by over 30% compared with 2009/10 when the Council is actually having to cut budgets by at least 20% because of government grant cuts. The PCT cluster acknowledges the need to address this issue and is in discussions with the Council. Without some change in approach the Council will be forced to consult during 2012/13 on raising its care eligibility criteria to critical in assessing people's eligibility to social care support. The Health & Wellbeing Board (see below) will have a key role to play in driving more joined up decisions around delivering savings we all have to achieve across the Health and Care system.

3.5 <u>Commissioning</u> – clinical commissioning, governance & authorisation and primary care services.

3.5.1 The Bill significantly reforms the arrangements for commissioning health services. It builds on GP fund holding in the 1990s and more recently practice based commissioning, and requires all GP practices to take on commissioning responsibilities from the PCTs by forming Clinical Commissioning Groups (CCG). These are to be given full budgetary responsibility for commissioning the majority of NHS services though some responsibilities are being removed from the local area and passed to the new NHS Commissioning Board on the basis that they require

regional collaboration.

Implications for the Council

3.5.2 It has long been recognised that effective commissioning of health and social care services (parts of the health and social care system are inextricably linked) to deliver services that meet the needs of local people is best delivered on a joint basis.

3.5.3 T&W Council and T&W PCT have a long history of effective joint commissioning but this is now under threat from moves towards all commissioning at Shropshire or cluster level. While this makes sense for the work commissioned from the Acute Hospital Trust it will be to the detriment of the more community based local services around older people, children, ALD, Mental health etc.

3.5.4 The Council along with T&W CCG need to agree a strategic direction of travel for commissioning, with an opportunity to develop a more fully integrated model of local joint commissioning.

3.6 LAs and the NHS – Health & Wellbeing Boards, Health & Wellbeing Strategy, Public Health (PH), HealthWatch.

<u>Health & Wellbeing Board</u>

3.6.1 The legislation will place statutory responsibility on the Council to set up a Shadow Health & Wellbeing Board and accompanying strategy by April 2012 to strengthen democratic legitimacy and ensure that commissioning is joined up across the NHS, social care and public health. The Board will take on its full statutory role from April 2013 and have a strong role in the development of local commissioning plans, responsibility for promoting joint commissioning and health and social care integration and a lead role in local public involvement. The Board will be able to refer NHS commissioning plans back to the local Clinical Commissioning Group (CCG) or the NHS Commissioning Board if they are not satisfied the plans take proper account of the local Health & Wellbeing Strategy.

Implications for the Council

3.6.2 The Council needs to ensure that it has a fully functioning Shadow Health & Wellbeing Board in place from April 2012, with strong Telford & Wrekin CCG and Council representation alongside other key stakeholders taking key strategic decisions from this date, based on the emerging Health & Wellbeing Strategy for the people of Telford & Wrekin. Alongside the creation of CCGs this is a key element of the new local health service architecture and the Council needs to think through its role and relationship to existing bodies such as the Local Strategic Partnership and relevant Scrutiny Committees. Given the speed with which the new NHS architecture is now being brought forward in shadow

form well ahead of the statutory timescale of April 2013, it is important that the Board quickly moves up a gear ,in assuming its future role to ensure a focus on the needs of Telford & Wrekin people..

Public Health (PH)

3.6.3 The Bill abolishes the Health Protection Agency and National Treatment Agency (Substance Misuse), places a duty on the Secretary of State to promote PH, creates Public Health England (PHE) and transfers responsibility for Public Health to local authorities, including the possible TUPE transfer of some NHS staff. The Council will be given a statutory duty to improve the health of the local population by using a ring-fenced grant from PHE to commission health improvement services, exerting positive influence on health through wider services such as transport, planning, housing and leisure, working closely with the CCG to integrate services and maximise opportunities for prevention, empowering communities to improve health and citizens to make more healthy choices. The Council will also have an obligation to provide local health needs information to the CCG through the Joint Strategic Needs Assessment.

3.6.4 PHE will focus on national resilience against things like flu pandemics and other health threats, as well as being a 'knowledge bank' for the best and most up to date evidence on behaviour change techniques and monitoring data. We are awaiting imminent announcements (November – December 2011), from government about key decisions, including funding levels.

Implications for Council

3.6.5 The Council needs to agree with T&W PCT and the CCG how it plans to manage local PH responsibilities in shadow form from April 2012. This could include the transfer of management responsibility to the Council from this date (The Director of Public Health is a joint appointment currently) and co-location of staff. The Strategic Health Authority on a recent assurance visit to T&W PCT made it clear that they would expect to see a shadow Public Health Plan in place detailing these arrangements early in 2012.

3.6.6 In the medium term (2012) the Council needs to give consideration to an operational organisation structure to deliver its new PH statutory duties beyond April 2013 that is consistent with its wider related public protection and public health responsibilities. This will need to take account of the views of the PH staff currently employed by T&W PCT, the funding available and the HR concordat that will set out principles of staff transfer from the NHS to local government.

3.6.7 The Council also needs to more fully understand the public health commissioning responsibilities and budgets, and what elements transfer to the Council. Former T&W PCT staff are now employed by the Shropshire Community NHS Trust delivering health promotion/prevention activity in roles such as health visitors. In addition the PCT commission other PH related activity from external agencies including the Council such as the Green Gym, a variety of peer support schemes, Healthy Warmth, etc.

HealthWatch

3.6.8 The Bill will replace local LINk organisations with local HealthWatch and creates HealthWatch England all designed to increase the public/patient voice within the NHS and Social Care.

3.6.9 HealthWatch England (HWE) will be a committee of the Care Quality Commission (CQC) and will act independently of Government, providing leadership, support and advice for local HealthWatch. Building on the current LINks function, the Council will be responsible for commissioning three core functions to be in place by October 2012:

Influencing – present the views and experiences of local health and care service users (this mirrors the current LINk function), be part of prioritising by having a seat on the local Health & Wellbeing Board, and also hold local service providers to account, including enter and view powers.

Signposting – provide information to service users to access health and social care services and promoting choice. Signposting is currently provided by the PCT through their Patient Advice and Liaison Services (PALS).

Advising – provide NHS complaints advocacy by April 2013. At present, the Independent Complaints Advocacy Service (ICAS) provides support to people wishing to complain about the treatment or care they received from the NHS. This does not have to be provided by the HealthWatch provider.

Implications for the Council

3.6.10 The current LINk's host contract with Staffordshire University had been extended up to 31 March 2012 (the original commencement date for HealthWatch) but cannot be extended further. This will create difficulties for LINk and we need to discuss with them how they could continue to function in the interim 6 month period.

3.6.11 The Council will need to agree a specification for each of the component functions set out above with a view to commencing a procurement

process by 1 February 2012 to secure a preferred provider by the end of July, with a start date of 1 October.

3.6.12 This will be an opportunity for the Council to set out selection criteria for a provider in line with co-operative council principles and to liaise with the CCG about the advantages in jointly commissioning a HealthWatch service and a Patient Participation service (CCG responsibility). Consideration could also be given to whether:

- HealthWatch is best delivered in a T&W specific context or on a wider pan Shropshire basis and
- whether the tender process is a full and open process or
- whether the Council agrees to support the development of a local representative group to become a body corporate, following a "single choice option" commissioning process or
- as above but enter into grant aiding the organisation with a Service Level Agreement

A separate report will outline the HealthWatch options in more detail and will seek approval from Council to give delegated responsibility to the Head of Care & Support in consultation with the Lead Cabinet member and Head of Governance to award the contract or set the SLA.

3.6.13 We are awaiting confirmation of the funding available to commission this new service. Initial indications are that there is an expectation that Council's will use the current funding available to fund LINks plus additional money that will be transferred from the NHS to LAs that fund the functions currently undertaken through PALS and ICAS.

3.6.14 There is an opportunity here to link HealthWatch access arrangements, health and social care advocacy, and "my community" information and advice delivered by the voluntary sector by accommodating the "front door" for HealthWatch within the Council's Community Hub.

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