REGIONAL

VOICES

Policy Briefing

Health and Social Care Act 2012

The Purpose of this briefing is to:

- Inform voluntary and community organisations about the Health and Social Care Act 2012
- Identify issues for voluntary and community organisations in key aspects of the Act.

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Introduction

The Health and Social Care Act has now passed into law and from 1st April 2013, new statutory organisations at national, regional and local levels will be responsible for improving health outcomes. This briefing summarises the main changes, and highlights key considerations for the voluntary and community sector.

The implementation of the **Health & Social Care Act 2012** will require the largest ever transition programme in the history of the NHS. Strategic Health Authorities and Primary Care Trusts will be abolished from April 1st 2013, and their existing functions separated out and handed over to organisations that will form the new landscape.

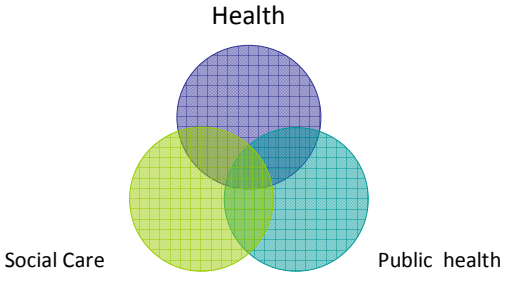
As Clinical Commissioning Groups, Health & Wellbeing Boards and Healthwatch take centre stage at a local level, the community and voluntary sector faces a range of challenges and risks to reposition itself and play a leading role informing, shaping, delivering and reviewing health and social care services. Most of the structures outlined in this document either exist already, with revised functions, or have shadow structures in place already with their legal operation due to commence in April 2013.

A system designed around outcomes

The reforms created by the Health and Social Care Act are underpinned by two principles:

1. **patients having more control over the care they receive; and**
2. **those responsible for patient care, the doctors, nurses and others who work in the NHS, having the freedom and power to lead an NHS that delivers continually improving outcomes for its patients.**

At the centre of the reforms are three outcomes frameworks: for health, public health and social care. These are intended to link together and guide all partners working in the new health care system, such that services will report against the health outcomes they deliver rather than process-driven targets.



What changes will the Act bring?

Patients and the public
Access to NHS services will continue to be on the basis of need and not ability to pay. "*No decision about me without me"* is intended to become the guiding principle behind which patients are treated. Patients will be able to choose their GP, consultant, treatment and hospital or other local health service. Patients will be able to have a collective voice through a national body, **Healthwatch England** and in their communities through local **Healthwatch, a consumer champion** commissioned by local authorities, which will evolve from the existing Local Involvement Network (LINk).

Commissioning of Healthcare
Most standard NHS care will be commissioned by Clinical Commissioning Groups (CCGs) which will give GPs and other clinicians responsibility for designing local services for patients and will take over from Primary Care trusts as the people who buy health services for patients. The new NHS Commissioning Board, a national arms length body, will hold Clinical Commissioning Groups to account, with powers to intervene in the event of significant failure, or in an emergency. The NHS Commissioning Board will also commission some specialist services and will have local area teams.

Hospitals and other health service providers
Providers should have greater freedom and fewer centrally set targets. They will be paid according to the results they achieve. Providers will also be able to make more money from different sources of revenue or reinvest it into NHS services. The Care Quality Commission will ensure services meet safety and quality requirements. Monitor will promote efficiency, with powers to set prices and ensure competition works in patients' interests.

Public Health

There will be increased focus on prevention with local councils taking over responsibility for public health services and population health improvement. Councils will employ Directors of Public Health and be responsible for providing a range of services. Public Health England will support councils in this role, promoting equality and tackling health inequalities in the areas set out in the Public Health Outcomes Framework, as well as leading on the design and delivery of systems to protect the population against existing and future threats to health.

Health & Wellbeing Boards
At a local level the health, public health and social care systems will be brought together through the Health and Wellbeing Board. These will bring together all the relevant statutory services together with councillors and a representative of local Healthwatch to agree strategic priorities and ensure services commissioned meet the needs of local communities. Through the ongoing **Joint Strategic Needs Assessment** (JSNA) process, Health & Wellbeing Boards will identify the current and future health and wellbeing needs of a local population, using this as the basis of their **Joint Health and Wellbeing Strategy**.

In summary, the Health & Social Care Act 2012:

- establishes an independent **NHS Commissioning Board** to allocate resources, provide commissioning guidance, oversee performance of Clinical Commissioning Groups and deliver some specialised commissioning;
- creates **Clinical Commissioning Groups** that increase GPs' powers to commission services on behalf of their patients;
- transfers responsibility for **Public Health** to Local Government;
- develops **Health & Wellbeing Boards**, bringing agencies together to create **Joint Health and Wellbeing Strategies based upon the Joint Strategic Needs Assessment**, summarising the health and well-being needs of local populations.
- creates **HealthWatch England** and **Local HealthWatch** to act as a consumer champion for health & wellbeing;
- strengthens the role of the **Care Quality Commission** and broadens the role of **Monitor**, to regulate all healthcare providers to ensure they remain financially sound and well governed;
- abolishes Primary Care Trusts and Strategic Health Authorities.

CHALLENGES FOR THE VOLUNTARY AND COMMUNITY SECTOR

Clinical Commissioning Groups (CCGs)

Groups of GPs and other key healthcare professionals will work together as Clinical Commissioning Groups and be responsible for around 80% of the healthcare budget in their area to plan and pay for services for the local population. CCGs have decided themselves what geography they will cover and therefore in some local authority areas there will be several CCGs and in others there will only be one or two. All GP practices within a geographical area will join the CCG for that locality. Each will have a governing Board including GPs, nurses, hospital doctors, other healthcare professionals such as physiotherapists and patient representatives. Although CCGs formally begin operating from April 2013, most are in the process of establishing and many PCTs have already started delegating responsibility for commissioning to CCGs.

The NHS Commissioning Board (NHSCB) is being established to oversee the CCGs, holding them to account against the NHS Outcomes Framework and ensuring they are spending their budgets properly. The NHSCB will also be responsible for commissioning specialist services such as transplants and health services in prisons.

Key considerations for the VCS:

- The voluntary and community sector needs to find ways to engage with CCGs, so their Boards understand what the sector offers and its differing roles e.g.

community intelligence to support authorisation, targeted service provision. Regional Voices has produced a guide to the VCS to assist with this.

- The sector must work together to offer co-ordinated engagement with CCGs; they are unlikely to want to engage with lots of individual organisations working in their area, and this will be particularly important in cross-border CCG areas. It is recommended that you contact your local Council for Voluntary Service (CVS) or Voluntary Action in the first instance to ascertain what existing work is being undertaken with the CCG in your area.
- Across England there is likely to be 212 CCGs in the first instance, although this may change. Many will not follow the local authority boundaries, so knowing who to influence will be a significant challenge. The links below give more information about the size, budget and location of all CCGs.

Useful links:
https://www.wp.dh.gov.uk/commissioningboard/files/2012/05/board-item5a-310512.xls
https://www.wp.dh.gov.uk/commissioningboard/files/2012/05/ccg-practice-list.xls
http://www.commissioningboard.nhs.uk/resources/ccg-maps/

Commissioning Support Services

Local and national commissioning support services (CSS) are being designed to offer an efficient, locally-sensitive and customer-focused service to CCGs. CCGs will retain legal accountability and responsibility for meeting their statutory functions and their commissioning decisions cannot be delegated but the Commissioning Support Service will support CCGs in carrying out commissioning functions, like leading change and service redesign, as well as actual commissioning functions, such as procurement, contract negotiation and monitoring and information analysis.

Key considerations for the VCS:

- Where Commissioning Support Services are used by CCGs these will be vital for voluntary sector organisations working in health in developing sustainable and effective local relationships. CSSs are emerging now and local support organisations should be seeking to develop and maintain relationships as they emerge. It is not yet clear whether all CCGs will use their "local CSS" or draw in support from elsewhere.

Current list of Commissioning Support Services -
http://www.commissioningboard.nhs.uk/2012/05/14/outcome-of-checkpoint-2/
Further info: http://www.commissioningboard.nhs.uk/files/2012/02/02-Commissioning-Support-QA-Feb-2012-web-version.pdf

Public Health

In summary, from April 2013 the reforms will see:

- **Local Authorities** taking the lead for improving health and coordinating local efforts to protect the public's health and wellbeing, and ensuring health services effectively promote population health. For a full list of the responsibilities of local authorities click here
- The creation of a new executive agency, **Public Health England** that will deliver national services (health protection, public health information and intelligence) and support the development of the specialist and wider public health workforce (appointing Directors of Public Health with local authorities, supporting excellence in public health practice and bringing together the wider range of public health professionals). It is expected that there will be a national office, local units and a distributed network of individuals across other services
- The NHS will continue to play a full role in providing care, tackling inequalities and ensuring every clinical contact counts.

Public Health Outcomes Framework

A new Public Health Outcomes Framework provides an overarching vision for public health, the outcomes that need to be achieved and indicators that will help to measure these. The Framework has on two high-level outcomes:

- Increased healthy life expectancy; and
- Reduced health inequalities and healthy life expectancy inequalities.

The indicators are based around:

- Improving the wider determinants of health
- Health improvement
- Health protection
- Public health and preventing premature mortality.

Key considerations for the VCS

- Public Health is a key part of voluntary and community sector engagement and delivery and it is therefore important that partners are engaged with, and understand, the new structures. It is likely that many voluntary and community services currently commissioned by PCTs will move to local authorities. The majority of engagement will be through local public health teams (through the Directors of Public Health in Local Authorities).

- The Public Health Outcomes Framework will be used to hold local government, the NHS and Public Health England to account. As with the NHS Outcomes Framework it will influence how voluntary and community sector groups are commissioned to provide public health services and will form the basis for contracts and payments. Concerns have been raised that a separation between the NHS and Public Health Outcomes Framework, may

result in clinical NHS services continuing to ignore the role of public health in improving the overall efficiency of NHS services.

Useful links:
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_131897.pdf
http://healthandcare.dh.gov.uk/public-health-system/

Health and Wellbeing Boards (HWBs)

Local authorities have a new duty to bring together commissioners for health and social care in their areas, to work together on Health and Wellbeing Boards. All local areas already have a shadow Heath and Wellbeing Board in operation and will be fully operational by April 2013.

The functions of the Board are to:

- Develop a joint health and wellbeing strategy (JHWS) for the local area based upon a comprehensive assessment of the needs of local people (the JSNA – see below);
- Use the strategy to shape key decisions on how we use our resources to meet those needs;
- Develop close working relationships with partner organisations to provide seamless services to local people.

Each Health and Wellbeing Board will contain (at a minimum):

- One local elected representative (councillor)
- A representative of the local Healthwatch
- A representative of each local CCG
- The local authority director for adult social services
- The local authority director for children's services
- The director of public health for the local authority

This minimum membership does not include anyone from the voluntary and community sector. Local Boards are free to expand their membership to include a wide range of perspectives and expertise, such as representatives from the charity or voluntary sectors and many areas have chosen to do this. In other areas, however, the route to the Health and Wellbeing Board for the voluntary and community sector will be primarily through the Healthwatch representative. Voluntary and community organisations are likely to wish to influence HWBs to ensure that the health and care needs of their members are fully reflected in local strategies.

Key considerations for the VCS:

- Influencing HWBs will be a significant challenge in some areas, where there is only a Healthwatch representative and not a wider voluntary sector

representative. Voluntary and community organisations will need to develop relationships with the Healthwatch representative quickly and effectively, even in areas where a voluntary and community sector seat on the Board is provided.

- HWBs should be very open to influence, meeting in public, often in community settings, in order to engage with the wider community. Where HWBs are more reticent, voluntary and community organisations will need to work together to establish relationships and get a coordinated message across.

Useful links: healthandcaredh.gov.uk/hwb-guide

Joint Strategic Needs Assessment (JSNA)

Joint Strategic Needs Assessments (JSNAs) are comprehensive assessments of the current and future health and social care needs of an area. They are created by Health and Wellbeing Boards, to guide the commissioning of local services, including the plans created by CCGs and by local authorities. They should take into account health inequalities and look at health and wellbeing in its widest sense, which may influence such services are housing and education.

JSNAs are not new but are being strengthened through the Health & Social Care Act by making them the responsibility of local authorities, through Health and Wellbeing Boards and placing the emphasis on CCGs to use the JSNA in developing commissioning plans. In most areas it Is likely that the JSNA will be an ongoing process rather than a one-off assessment.

Key considerations for the VCS:

- As JSNAs will guide the commissioning of local health and well-being services, it will be important for voluntary and community organisations to ensure that the health and wellbeing needs of their members are fully reflected in JSNAs. It will be helpful for voluntary and community groups to provide good evidence in order to influence the content of JSNAs. A Regional Voices guide to influencing at a local level will be available within the next few months.
- Influencing JSNAs will require a co-ordinated approach from the voluntary and community sector, so that HWBs do not have to constantly respond to the needs of individual groups, some of which may be more influential and organised than other. It is recommended that you contact your local Council for Voluntary Service (CVS) or Voluntary Action in the first instance to ascertain what existing work is being undertaken in relation to the JSNA in your area.

Useful links: Joint Strategic Needs Assessment and joint health and wellbeing strategies explained : Department of Health - Publications

Healthwatch

Healthwatch is to be a new consumer champion to "give citizens a greater say in how the NHS is run". Each local authority area will have a local Healthwatch that will provide a collective voice for local people across both health and social care. It will be an independent organisation, with its own staff, able to influence the planning and commissioning of health and wellbeing services through its seat on the local health and wellbeing board. Healthwatch will replace the Local Involvement Network (LINk); in some areas it will be an evolution from the LINk whereas in others it will be a new entity. Although some local authorities are considering establishing Healthwatch in shadow form early, it is likely that in most areas, Healthwatch will commence operations from April 2013.

Local Healthwatch organisations will be able to influence at the national level through the creation of Healthwatch England, a statutory committee of the Care Quality Commission (CQC). It will collate the views and experiences of people who use services to influence national policy and will also provide support to local Healthwatch organisations.

Key considerations for the VCS:

- In areas where Healthwatch is the only route for voluntary and community sector influence on local Health & Wellbeing Boards, the voluntary and community sector will need to be extremely well linked with the local Healthwatch.
- The voluntary and community sector should engage with the transition from LINk to Healthwatch to ensure voluntary sector networks form a key part of the Healthwatch structure.
- The differences between Healthwatch and the wider voluntary and community sector are not well understood. There may be a job to be done locally to ensure the differences are appreciated by strategic decision makers.
- Healthwatch should provide an opportunity for those organisations representing the voice of patients and service users in specialist fields to be able to reach decision makers if implemented effectively.

Useful links: http://healthandcare.dh.gov.uk/files/2012/03/Local-Healthwatch-policy.pdf
http://www.cqc.org.uk/public/about-us/partnerships-other-organisations/healthwatch
http://healthandcare.dh.gov.uk/what-is-healthwatch/
http://healthandcare.dh.gov.uk/tag/healthwatch/

NHS Commissioning Board

The NHS Commissioning Board (NHSCB) Special Health Authority, currently operational, was established to prepare for the NHS Commissioning Board which will be launched in October 2012 but commence full statutory responsibilities in April 2013. It is responsible for designing the commissioning landscape including agreeing how CCGs will be established, authorised and run, and providing support to commissioning support services. In addition, the NHSCB will undertake commissioning for some specialised services.

The NHSCB will be an independent arms length body, accountable to the Secretary of State for Health for delivery against the NHS Outcomes Framework but theoretically outside of political direct control. It is likely to create a business plan over a 10-year period creating strategic direction to the NHS.

- NHS Commissioning Board meetings are held quarterly in Leeds and are open to the public.

Key considerations for the VCS:

- It will be important for the voluntary and community sector to be clear about what good commissioning looks like, so that small to medium sized voluntary organisations are not excluded from the process.
- Part of the criteria for CCG authorisation is whether they have good links with the voluntary and community sector. Where this is not the case, the voluntary and community sector should seek to influence and could speak to the NHSCB to support change

Useful links: http://www.commissioningboard.nhs.uk

Care Quality Commission (CQC) and Monitor

The CQC is already the independent regulator for health and social care services in England. It regulates care that people receive in a variety of health and adult social care settings. Registration covers Adult Social Care, independent health & social care providers, NHS Trusts, Primary Dental Care and Primary Medical Services.

Monitor is the governments' economic regulator for the NHS, originally set up to regulate NHS Foundation Trusts. Through the Health and Social Care Act 2012, its' role has been widened to regulate all organisations commissioned to run to run NHS health services.

Eventually, Monitor will license and regulate social care providers through working with the Care Quality Commission. An important part of Monitors' role is to regulate the price of services and reduce anti-competitive practice.

Key considerations for the VCS:

- There are concerns that voluntary and community providers who do not operate "standard" services may eventually fall within the scope of the regulators which could put pressure on many smaller organisations who do not have the resources or systems in place to meet these
- A significant challenge will be ensuring that voluntary organisations are financially sound and robust enough to meet Monitors' licensing requirements.

Useful links:
http://www.cqc.org.uk/public
http://www.nhsft.gov.uk/sites/all/modules/fckeditor/plugins/ktbrowser/_openTKfile.php?id=6211

Any Qualified Provider (AQP)

When a patient is referred (usually by their GP) for a particular health service, they should be able to choose from a list of qualified providers who meet NHS quality requirements and price, called Any Qualified Provider (AQP). This will give patients more choice of where they are treated.

NHS Commissioners will identify specific services (such as end-of-life or mental health care) which they will open up to private and not-for-profit organisations. These organisations will then bid to achieve 'Qualified Provider' status and will receive a 'fixed price' for providing services when selected by the patient.

Key considerations for the VCS:

- The move to AQP could provide opportunities for many smaller providers if the application to meet AQP is not too onerous in opening up their services to those who might not otherwise have accessed them
- For others, the financial uncertainty surrounding AQP, where patients may or may not choose your service, may be problematic in comparison to block contracting.

Useful links:
http://www.lvsc.org.uk/media/113591/presentation%20for%20lvsc%20-%20directory%20of%20social%20change.ppt

Regional Voices connects voluntary and community organisations with government, through nine regional networks, to inform and influence policy at local, regional and national levels. Regional Voices is a strategic partner to the Department of Health and works with the Local Government Association to support the development of Healthwatch.

Many thanks to Joanne Smithson from VONNE for co-ordinating the writing of this briefing and to all the Regional Health Co-ordinators who have been involved in writing it.

For more information about Regional Voices – www.regionalvoices.net