Healthwatch and the future of health and care

Briefing on the Health and Care white paper - May 2021

Introduction

The *Health and Social Care Act (2012)* made major changes to the way that health and care service including included the creation of Healthwatch England and the Healthwatch network, and the introduction of statutory Health and Wellbeing Boards in top-tier local authorities.

The recent *Health and Social Care white paper* brings together key areas of work from the 2012 Act and the *NHS Long Term Plan*. The white paper includes a commitment to:

> "ensure a system that is more accountable and responsive to the people that work in it and the people that use it."

This is not simply an organisational restructure but one designed to change the way health and social care systems think and work:

> "We know from the vanguard ICSs that taking a joined-up, population focused approach means you cannot see the people that services are meant for as just units within the system – their voice and sense of what matters to them becomes really central. That focus won't come through structures alone of course but working with organisations such as Healthwatch there is a real chance to strengthen and assess patient voice at place and system levels, not just as a commentary on services but as a source of genuine co-production."[1]

Based in its experience and its statutory role which covers the whole of the country, the Healthwatch network is uniquely placed to:

- give local people a voice as local systems plan and deliver their services
- support public voice within and across ICS footprints, as well as at Place and Neighbourhood level
- support systems to know and understand their communities and their needs
- facilitate engagement with the wider VCSE sector.

As Healthwatch cover both health and social care, they can provide valuable insight to support local systems as they develop plans to improve integration.

While we understand the importance of local areas adopting governance arrangement to suit local circumstances, we strongly recommend that the Bill includes provision for Healthwatch activity, currently commissioned at local authority level, to be replicated at system level. This will ensure a consistent approach to supporting public voice in the planning, design and scrutiny of health and care services.

[1] *https://www.gov.uk/government/publications/working-together-to-improve-health-and-social-care-for-all*

Planning for the future

Public voice

In looking at how public voice can best be represented in the new systems, we should learn the lessons from the 20212 Act. Healthwatch have specific functions which commissioners and service providers need to take account of their work, responding formally where necessary. Through its advice and information service, Healthwatch can gain further insight into what is important to local people without it being formally registered as a complaint. The recent *increase in insight about dentistry* has led to further work being undertaken at regional and national level.

We suggest that the functions and powers vested in Healthwatch at a local level in the 2012 Act are replicated exactly at system level in the Bill.

The nature of the different footprints of ICS – and Places with in them – means that it is not possible to set out a single way of working that would suit all areas and we welcome that there will be local determination to suit local circumstances. From the Healthwatch network's perspective, there will be some areas where there will be one Healthwatch in an ICS, covering several Places. In other ICSs, there may be a large number of Healthwatch at System level, each representing one Place.

This will make it essential that guidance is provided to ensure that local systems properly reflect expectations about public voice. Guidance will need to clarify the need to take account of public voice across the footprint – including the diversity of need and viewpoints – rather than a generalised overview.

We suggest that where additional work is required to enable Healthwatch to be truly representative at system level, that additional resources are made available on a sustainable basis.

The 2012 Act ensured that public voice was represented in the system by the inclusion of a place on the Health and Wellbeing Board for local Healthwatch. This has worked well, and it provides a valuable model for how this should work at system level as it means that local voices are heard directly rather than filtered through the system. Although this may be challenging at times, this challenge can be useful for the system.

We suggest that local Healthwatch should be represented at both the ICS NHS Body and the Health and Care Partnership.

Accountability

The white paper sets out clear lines of accountability at national level but does not set out what will happen at a local level. While national accountability is essential, organisations and system also need to be accountable to the people to whom they are directly providing services. At a local level, strong relationships between Healthwatch, Health and Wellbeing Boards and Health Scrutiny have provided a framework that supports strong accountability across the system. Accountability should not be viewed as a series of discrete processes but rather as an ongoing process where services work with organisations both proactively and reactively, demonstrating how they have discharged their functions to the standards expected.

The white paper highlights that local authorities will not have a specific right to refer issues to the Secretary of State but is not clear about what, if anything will replace this. The Healthwatch network has worked closely with Health Scrutiny and we will expect this to continue. There will be a need for updated guidance to set out expectations of Overview and Scrutiny in the new landscape, particularly as the power to refer issues to the Secretary of State has been removed.

We suggest the bill ensures that there are robust arrangements to hold both systems and organisations to account at a local level, at ICS or Place level or any other decision-making tier, as appropriate, and that this is underpinned by guidance.

To ensure public voice is properly considered, we propose that ICSs should be required to produce an annual plan setting out their proposals for public engagement.

Data Sharing

The white paper makes proposals to improve data sharing both to enable patients to move through the system but also to aid service planning, evaluation and innovation. This misses an opportunity to support the sharing of other types of data between providers, across ICSs and with the system at a national level; for example, qualitative data that sheds a light on the experiences of patients and users.

Data currently trapped inside single organisations, with the limited ability to maximise use of the insights it provides, includes:

- Friends and Family Test free text feedback
- Free text comments left on NHS.UK
- Qualitative evidence gathered from complaints
- Qualitative user experience gathered through consultation exercises or service evaluations

When patients provide feedback through these routes they do so because they want the system to know what it is doing well and where it needs to improve. It should be up to these same patients to decide whether the feedback they share can be passed on further.

We suggest that the bill includes provision to:

- **support the sharing of qualitative feedback from users in all its forms.**
- **establish a right for patients to decide whether any feedback they provide is shared across the broader health and care system.**
- **give the Healthwatch network, where appropriate and in line with broader data protection legislation, the right of access to this data.**

Decision-making

Although the white paper sets out the detail of the functions of both the ICS NHS Body and the Health and Care Partnership, we are less clear about the relationship between the two.

> "This body *[ICS Health and Care Partnership]* will be responsible for developing a plan that addresses the wider health, public health, and social care needs of the system – the ICS NHS Body and local authorities will have to have regard to that plan when making decisions."

Although we would hope that much of this will be achieved by consensus, there may be times where the ICS NHS Body and the Health and Care Partnership come to different conclusions. In these cases, there is a risk that the decisions made may not have full support across the system. This can be mitigated against by demonstrating how the ICS NHS Body has taken the plan into account.

We suggest that, when an ICS NHS Body makes a decision which goes against the Health and Care Partnership plan, the ICS NHS Body produces a public report explaining the grounds for the decision and the reason for not following the plan.

Social Care

Social care continues to be a significant cause for concern across the Healthwatch network with many of the underlying issues compounding difficulties faced during the pandemic. While much of the focus was - perhaps understandably - on care homes for older people, social care covers a far wider range of support and the full spectrum needs to be taken into account.

The report from the Health for Coalition *Let's Do This - The Promise of Fixing Social Care* includes seven principle for social care reform:

- Sharing costs
- Fair eligibility
- Improving Integration
- Sustainability
- Valuing the workforce
- Supporting carers
- Accessibility

While the white paper touches on some of these issues, there is no overall commitment to tackle the underlying issue. The vision to achieve integration cannot be achieve when a substantial part of the system – social care – faces major challenges which cannot be resolved without significant transformation. While this may not be something that can be set out in detail in the bill, unless there is a clear plan for social care at an early stage, there is a risk that integration will continue to be held back by an unsustainable social care system. This not only needs to take account of social care services but must also consider the importance of informal care provided by family and friends.

We suggest that a firm timetable for the reform of social care is produced to enable ICSs and their stakeholders to make effective plans for integration.

Commissioning

The reduction in the requirement for competitive commissioning is welcomed in that it can help ensure stability in services while reducing bureaucracy. Healthwatch have to date had oversight of the process through their involvement in Primary Care Commissioning Committees. The new provider selection regime will need to demonstrate that the views of the public are being taken into account and that, even where the contract holder is not being changed, that insight from the public is taken into account

We suggest that the provider selection process should ensure that the views of the public are considered whenever contracts are renewed or recommissioned.

Updating the 2012 Act

The 2012 Act (*section 181: Healthwatch England*) sets out the functions of Healthwatch England which requires some updating to reflect the changing structures; for example, references to the National Health Service Commissioning Board and Monitor as organisations to be advised by Healthwatch England. In order to prevent the need for regular updating, a more general power would be helpful. It would also be useful to align the functions of Healthwatch England with those of local Healthwatch with regard to making information requests (*section 186: Requests, rights of entry and referrals*), allowing a consistent approach.

We suggest that the Bill includes provision for Healthwatch England and local Healthwatch to have similar powers to request information from, and make referrals to, any appropriate organisation planning, commissioning or delivering health and social care services.

Currently, Healthwatch England can advise local authorities about their arrangements for commissioning local Healthwatch and this is often received constructively. Where a local authority may not accept Healthwatch England's advice, and the local authority may be in breach of legislation or regulation, no further action can be taken. Additional powers to deal with these situations are required.

We suggest that, where a local authority does not act on advice provided by Healthwatch England, Healthwatch England is given the power to refer the matter to the Secretary of State for Health and Social Care and / or Secretary of State for Housing, Communities and Local Government.

Healthwatch's current remit covers publicly funded health and social care services as set out in the Local Government and Public Involvement in Health Act (2007). Section 221 *Health services and social services* defines these services as:

- (a)services provided as part of the health service in England; or
- (b)services provided as part of the social services functions of a local authority

This has created a lack of clarity around Healthwatch's specific remit in relation to public health services. With the public health infrastructure in the process of changing, it will be opportune to consider how Healthwatch can best support the public health agenda at local, ICS and national levels.