Birmingham City Council

birmingham health and wellbeing partnership

# Liberating the NHS:
## Implementing the White Paper

*A response from Birmingham City Council*


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# 1. Introduction

This document outlines the views of Birmingham City Council on the NHS White Paper *Equity and Excellence: Liberating the NHS* and on the supporting papers *Liberating the NHS – Local democratic legitimacy in health* and other *Liberating the NHS consultation papers as appropriate.*

Our aim in this response has been to give a clear view of our position and the issues that are important to us, as well as responding to the department of Health we have used this reply to structure our thinking is ways that are transparent to partners. Our aim is to promote and grow a shared understanding of approaches to a new NHS and care system in this city. We are resolutely committed to providing the local political and professional leadership envisaged by White Paper and to engaging with the clinically led NHS. We look forward to further debate with our partners on implementing the approach and principles we have developed.

The detailed responses in this document concentrate in particular and understandably we feel on the "Local democratic legitimacy in health" consultation paper. However, at the end of the paper we put forward supportive and constructive comment on the other four important consultation papers, namely:-

- Commissioning for patients
- Achieving equity and excellence for children
- Transparency in outcomes: a framework for the NHS
- Regulating healthcare providers

Birmingham City Council strongly welcomes the direction of the White Paper, and in particular:

- Welcomes putting people at the centre of commissioning, provision and decision making which builds on our strong commitment to personalised care

- Welcomes the proposals to strengthen the strategic role of Local Government in public health, especially in improving the health of our population

- Welcomes the proposals for greater synergy between health and social care and the duty of integration

- Welcomes the direction of travel in A*chieving equity and excellence for children* and in particular the direction and priority this will give to the Childrens' Trust, Health and Wellbeing Board and GP Commissioning Consortia. We also welcome the recognition of the continuing importance of the Joint Strategic Needs Assessment for Children and young people.

- Welcomes the proposals for the local Health and Wellbeing Board and its duty to work for all citizens across the Lifespan, both children and adults, and the strategic importance this will give to both elected members and clinicians reaching decisions together

- Welcomes the close working between the National Public Health Service, Director of Public Health and Local Authorities, and especially the proposals to agree health outcomes.

- Welcomes the strategic assessment of need, which will provide a sound basis for commissioning to meet the needs of the population

This paper outlines the ways in which Birmingham will seek to implement the key proposals of the White Paper. We have a lot to build on:

- As the first Local Authority in England to appoint a Director of Public Health, we believe the Directors of Public Health together have built a public health foundation which will enable our authority to take on these roles smoothly and effectively. We look forward to the publication of the Public Health White Paper in autumn. We also look forward to the expected Adult Social Care White Paper during 2011.

- Our Health and Wellbeing Partnership has also created a culture of working together with the NHS, and again our Partnership and its Director puts us in a strong position to move towards the new Health and Wellbeing Board.

- Our Health Scrutiny function has been and continues to be important to us. We will seek to ensure that the principles and work of Health Scrutiny are embedded into how we take forward the arrangements for implementing the White Paper in Birmingham. We have already made positive progress on Scrutiny, with a particular eye to supporting and facilitating improvements in whole-system efficiencies and effectiveness. For example, through merging earlier this year the previously separate Health and Adult Services Scrutiny Committees; and initiating new work programmes for the scrutiny function.

- The City Council has been building specific programmes to improve health and embed public health priorities across a number of its functions. We have excellent, relevant cross-theme partnerships locally which are delivering well. In particular, our ongoing work in Housing (the Decent Homes Programme) to improve dramatically the condition and maintenance of the City's stock, along with a range of other initiatives, have already made major positive contributions to long-term health improvement and the reduction of inequalities. This is one of the City Council's biggest health improvement programmes. This work along with specific work to develop neighbourhood-level health plans and the introduction of a neighbourhood health improvement model, with neighbourhood health profiles, have shown the Council's commitment to health improvement, and to innovation.

We used all of our existing work to develop an early consultation and discussion document upon which this reply is based. We understand that this response has strong support and engagement from across the Birmingham health community. We particularly welcome the support given to this approach and believe that by continuing to work together in a transparent way we can achieve the new vision for the NHS.

Our bottom line is clear; we are committed to implementation through co-design with our partners of a new approach to health and care. Our current response is a part of that journey, but we recognise the need to continue to develop and change in order to achieve the goals set out for the NHS.

# 2. Principles for our approach to the White Paper

The City Council welcomes the NHS White Paper and sees in the White Paper a range of opportunities to improve the health and wellbeing of our population, in turn enabling us to make the City more sustainable, more prosperous, and more vibrant.

Underpinning our position on the White Paper, the City Council would see the strengthening of joint working and partnership with General Practitioners as a critical consideration for a new approach to health care in the City. It sees the following as essential principles to support the delivery of this aim.

The principles were approved by the Cabinet and Executive Management Team of Birmingham City Council as a basis for engagement with the NHS. They are also strongly supported by our local NHS colleagues and other partners, including Third Sector organisations. These principles appear to be even more relevant and appropriate from our reading of the White Paper and supporting consultation papers.

## Principle 1: Birmingham first

***We want to see a solution that is based on the needs of Birmingham and its citizens.***

- Our ambition to be a global city, requires vigorous improvement of all outcomes and the redesign of services accordingly

- In the light of economic circumstances there also needs a shared agenda of greater efficiency and effectiveness that is genuinely owned and shared jointly

## Principle 2: Improve delivery of Priority Outcomes for our Citizens

***We want to see better outcomes for people that matter most to us***

- People in Birmingham do not enjoy the same standard of health as the rest of the country. The current system and approaches to these challenges are not working and need radical overhaul. Improvements in health inequalities should be made by greater focus and use of programme approaches that require unified leadership

- Children in Birmingham must be made safer through continued engagement of all partners. Including Children in the agendas of GP Commissioning Consortia, the Health and Wellbeing Board and the National Public Health Service will be crucial.

- Children in Birmingham and their families should enjoy reliable and consistent support that is focussed upon meeting priority needs in line with our strategic vision to measurably improve the health and wellbeing of Birmingham's children through a programme of evidence-based interventions, a shift to early intervention and preventative work, and development of a team around the family model (Brighter Futures)". This requires a new approach to joint commissioning in children's services. This could be an important opportunity for the Health and Wellbeing Board to integrate and plan services across the Lifespan of our citizens.

- People with long-term conditions, Learning Disability and Mental Health need improvements to their quality of lives through a consistent approach to applying social models. This needs the determined support of the new Joint Governance structure and a single commissioning strategy for Birmingham

- Older adults in Birmingham want more care closer to home and a strong focus on intermediate care based on re-ablement concepts. Special mention of this in the White Paper and the potential for more integration of services is particularly welcome.

- Children and Young People in Birmingham have provided valuable insight into how we can achieve what they want for their future, and our Childrens' Joint Strategic Needs Assessment is already informing commissioning.

## Principle 3 – Support risk and innovation

***We want greater capacity to make bold and innovative investments in new approaches***

- We are now leading councils in implementing self directed support. We support further roll out of the concepts of personalisation and individual budgets across public services

- We have pilot status for individual budgets within the NHS We want to achieve efficiency through enhancing the ability of people to make decisions about quality and value about the use of the public pound.

- We support the principle of a public sector without boundaries that is committed to the implementation of the concept of Place-Based Budgets and solutions. There are already examples of where we can achieve this for Children, as well as for adults, in Birmingham.

- We recognise that this will require investment in prevention and different interventions which may drive new approaches to ensure returns on investment from the public pound.

- We want to ensure that where it exists we use evidence from around the world on what works to plan and commission new services. We want to see real engagement with local people to support innovation.

- We want to evaluate existing services against outcomes and de-commission where there is no evidence of impact

## Principle 4 – Support Effective Partnership and promote collaborative behaviours

***We want to build on the improvements made to our joint approach to health and wellbeing***

- We want to see a determined "can do" approach to meeting the challenges that face us – not a structure that promotes complexity as an excuse

- We are committed to developing great governance of shared financial and service risks – supporting the greater integration of commissioning and service delivery

- We want attention to the underdeveloped potential of front line staff across health and the council to improve efficiency and outcomes. We want to improve professional leadership in care to compliment a clinically led NHS

- We want to promote in our organisations the trust and collaboration that has been shown at senior levels

## Principle 5 - Drive diversity of provision based on choice

***We want to see diverse provision and a greater focus on the third sector in order to enhance resilience within the city***

- We want to see a more diverse range of provision, and to encourage a radical development of new forms of care and health providers. We want to do this in ways that enhance both the economic and social capital of this city

- We particularly want to improve the capacity of our communities through the full engagement of the third sector and emerging social enterprise approaches

- We support the wider development of our approach that all services should be transparently commissioned, including those that are retained within public bodies

## Principle 6 – Engage citizens and enhance democratic decision making

***We want to reduce the costs of governance whilst improving the way our citizens engage***

- We know that people want to engage around needs and issues rather than structures and we want to promote

- We want to improve governance and accountability by developing a shared approach to local and city wide decision making

- We want to sharpen democratic accountability through scrutiny and through transparent reporting to the public

- We want single, lean, governance both as a principle but also the basis of promoting trust

We welcome the White Paper, and look forward to the Public Health and Adult Social Care White Papers because we believe these principles will be embedded in Birmingham through the direction the Government has set. We believe the White Paper provides substantial opportunities to develop the agendas for Children and for Adults and the interface and transition issues between these. We also look forward to the Public Health White Paper providing some direction on crucial aspects of Child Public Health

We also ask for flexibility to develop and deliver these locally in configurations which best suit our needs, and deliver best outcomes most efficiently.

# 3. Implementing the White Paper in Birmingham

There are a range of important challenges in making *Liberating the NHS* reality. There are many initiatives and changes signalled in the paper but more detail is needed, and we are keen to help develop and test this detail. We believe there is a strong opportunity for Government and local partner agencies to consider best practice models in implementing the principles, direction and commitments behind the White Paper, and the forthcoming White Papers.

There may be a temptation to wait before commencing action, because some areas lack clarity. We believe this would be wrong for several reasons:

- Implementing the White Paper will require strong partnership between Government, Local Government and the NHS

- We believe that political leadership can and should play an important role in giving clarity through this period of change

- The scale of change means we need to be ready to implement this, and this means starting now

- The Birmingham Principles make clear that getting the best for our citizens means working actively to develop a direction and pathway to implement the White Paper, and successive arrangements and White Papers, as quickly as possible We welcome the strong signals from the Secretary of State in support of this type of approach.

- We recognise that this is going to be a complex change. We have worked hard to build partnerships with PCTs over the last decade and want to secure a strong foundation for the new systems in the NHS. We strongly support the freedom given by Government to develop more local approaches but know that this requires major changes in attitudes and behaviours in the way we work together.

In light of this we will

1. **Agree our focus and arrangements to deliver. This means we will:**

    - Give clear local leadership from the Council. We hope that the transparency of our position is a clear signal of our commitment and direction as well as our determination to engage with clinical leaders in the change process.

    - Maintain and develop/extend the task group led by our Strategic Director Adults and Communities, reporting to the Council's Executive Management Team

- Actively work nationally and locally to identify the best options for implementing the White Paper

- Agree as a local authority and with our key partners our direction of travel to meet the new opportunities and challenges of the White Paper

2. **Implement the governance of the system through the establishing the Health and Wellbeing Board in interim form with immediate effect. This means we will:**

    - Establish an interim Health and Wellbeing Board working with elected members , GPs, and health partners . The Director of the Health and Wellbeing Partnership will work with our partners to :

        - Create a new governance focus across adults, children and health and consider the relationship between the NHS and all aspects of the work of the council
            - Ensure that structures and systems for Childrens commissioning and Joint Commissioning reflect national prioritisation in *Achieving equity and excellence for children.*
        - Evolve new ways of working
        - Establish a clear focus based on the Liberated NHS proposal
        - Develop the new culture of clinical and political leadership
        - Monitor progress of change programme and current key measures

    The aim of the Interim Board will be to create a structure, terms of reference and membership for the future that will embed good governance into the city's partnership with the NHS.

    The City Council sees the term "Health and Wellbeing" in its broadest sense. We want to work with this interim structure to look at how we get good governance across all aspects of our work, including difficult but important and immediate areas like the safety of children.

3. **Develop and implement the new public health model by early 2011, and ensure this is a council wide model. This means we will:**

    - Design the approaches needed to implement the new public health arrangements
    - Commence HR and finance transition planning
    - Build corporate and matrix systems for tackling the wider determinants of health as well as core public health functions
    - Have strong capacity and strategy in place to hit 2012 premium payments
    - Revise the focus of the JSNA to ensure that JSNA products at locality bases are relevant and appropriate
    - Produce a Public Health Strategy for Birmingham which will combine the commitments made in the White Paper, the Council Plan and identify key public health challenges for the City. In addition we will work with partners to:
        - Produce a health protection strategy for Birmingham
        - Produce a Child Health Improvement Strategy for Birmingham

The City Council recognises that there have been some notable successes in public health in the city. However the current position is that the people who live in our city experience worse health than many others in Britain. Our aspirations to be a world class city will not be met unless we implement different approaches to the unique and very localised issues across the city and its population,

4. **Ensure the Council and its partners make the right offers for effective business support proposals to interested consortia (clearly, the key decisions on these will be in the hands of those emerging consortia). This means we will:**

    - Create a clear offer across BCC and Service Birmingham
    - Develop routes to consortia
    - Engage a wider Council focus
    - Short term support offer to outgoing PCTs

5. **Ensure an integrated approach to planning the use of resources, in order to maintain and develop whole system capacity. This means we will:**

    - Develop and accelerate Council engagement with the NHS resource plan "QIPP" as an initial starting point, with a view to ensuring all necessary options to deliver tough efficiency targets are considered
    - Develop proposals for key areas of financial integration and planning
    - Develop clear benefit realisation systems to support whole system investment
    - Link with the proposals to explore agreed areas where health and care Place-Based budget solutions would be beneficial for Birmingham (and surrounds where appropriate).
    - Continue to evolve individual budgets to create a basis for the widespread use of personal budgets held by people to meet their health and care needs

6. **Develop integrated commissioning offers in interest areas. This means we will:**

    - Communicate clearly across systems that BCC sees its skills and expertise as commissioning for individual budgets and community based care. At present BCC wants to concentrate on the development of these areas.
    - Continue to develop section.75 mechanisms – building on our recent £350m per annum Mental Health and Learning Disabilities' formal pooled budget agreement. We are particularly committed to evolving our governance of Britain's largest pooled budget to embrace clinical leadership
    - Understand and develop better the processes (the"how") and the content (the "what" ) of current joint commissioning arrangements, in order to maximise outcomes and collective gain.
        - In particular, ensuring within this that GPs and GP commissioning consortia are able to understand their role within this and are fully committed to it.
    - Develop joint commissioning of children's' services, particularly around early years' services
    - Support productive models of older adults' service integration, and their application citywide

- Develop obvious "wins" in single contracting/procurement arrangements – such as in relation to care and nursing homes
- Explore the potential to build on individual and personal health budgets
- Explore the potential to develop better whole-system support for carers.

7. **Retain and sustain a clear focus and strong performance management on the key targets and outcomes of BCC (NHS). We will need to build this into new governance systems. This will require building on existing successes in determining and agreeing our top local joint priorities. This means we will focus on:**

    - Delivery of whole system child care improvements
    - Consolidating our preventive and predictive work
    - Ensure the Joint Strategic Needs Assessment continues to develop focus and direction for commissioning
    - Health inequalities delivery and ensuring Birmingham rises to the challenge of Government's intended premiums based on need and performance
    - Current section 75 commitments
    - Delayed transfers of care and associated system change
    - Managing the system, performance improvement and transition

To support our work towards these, we will:

- Agree with NHS partners interim arrangements and directions of travel so that we ensure a smooth pathway to the implementation of the White Paper
- Maintain a focus on the areas where we want to see immediate improvements in performance – the protection of children and some key public health outcomes – and ensure that we have governance through the change process

- Engage elected members, and ensure they lead in this work, especially with General Practitioners

- Begin to engage General Practitioners and emergent GP Commissioning Consortia, particularly around the agenda of shared commissioning and shared outcomes within the context of personalisation in health and social care

- Ensure that we develop arrangements with LINk, learning from national and local experience of these arrangements to date, and with other user and carer fora to embed patient and service user views in the new arrangements. We need to ensure all available resources and support is used to best effect.

We are commited to a process that allows the fullest possible learning from best practice and national models. We want to maximise the expertise held in the city by our partners in the University of Birmingham and find ways of deploying knowledge and expertise into our work together. We also want to create shared learning – for example there are potentially shared opportunities for learning for the new devolved commissioning agendas facing schools and GPs.

# 4. Responses to consultation paper - Local democratic legitimacy in health

This paper "*Local democratic legitimacy in health*, provides further information on proposals for increasing local democratic legitimacy in health, through a clear and enhanced role for local government. Through elected Members, local authorities will bring greater local democratic legitimacy to health. They will bring the perspective of local place - of neighbourhoods and communities - into commissioning plans. Local authorities can take a broader, more effective view of health improvement. They are uniquely placed to promote integration of local services across the boundaries between the NHS, social care and public health."

Our response to the questions and proposals in this paper is as follows:

***Q1 Should local HealthWatch have a formal role in seeking patients' views on whether local providers and commissioners of NHS services are taking account of the NHS Constitution?***

*We believe this would be important in line with our principles outlined above. We have consistently sought across Health and Social Care in Birmingham to include the needs and perspectives of people. We embody this through various mechanisms including most recently the ongoing development of the Joint Strategic Needs Assessment. HealthWatch should as a matter of priority seek and represent the views of patients, and indeed all relevant residents, rather than solely their members.*

*Health Watch should have a formal role in seeking patient's views of the application of the constitution. The move towards a constitutional basis for health services only has validity if patients have a mechanism to enforce their rights. Whilst this could be enforced through Department of Health or NHS Commissioning Board there is sense in capitalising on the perceived autonomy of Health Watch. The power to assess the application of the constitution will also serve as a useful tool to encourage increased involvement with Health Watch. One of the central criticisms of the move from Patients Fora to Local Involvement Networks was a perception that statutory powers had been in some way reduced; this proposal might mitigate this perception.*

***Q2 Should local HealthWatch take on the wider role outlined in paragraph 17 with responsibility for complaints advocacy and supporting individuals to exercise choice and control?***

*Yes, brokering arrangements have worked well through personalisation in Social Care. Providing such "citizens' advice" style work in health will support greater patient choice and will be important in delivering a culture of personalisation and people taking greater responsibility for their own health.*

> *The local authority will continue to fund HealthWatch and contract for their services and will have the statutory responsibility to discharge these duties and hold local HealthWatch to account for delivering services that are effective and value for money. The local authority will also have responsibility for complaints advocacy but will*

*commission local HealthWatch or HealthWatch England to provide the service. The proposals needs to be more explicit about what level of professional expertise it is envisaged will be available to provide support, given that currently the LINks depends largely on unpaid volunteers.*

*This is particularly important given the wider role proposed for HealthWatch in the consultation paper. This includes two new and potentially onerous service functions around supporting individuals to exercise choice, for example helping them choose a GP practice and handling the NHS complaints advocacy services, which is currently exercised through a Department of Health contract for the Independent Complaints Advocacy Service. Given the importance of these new functions clarification about the balance between the reliance on unpaid volunteers and the professional expertise and support which will be available to discharge these functions is fundamental.*

***Q3 What needs to be done to enable local authorities to be the most effective commissioners of local HealthWatch?***

*The guidance for commissioning needs to be sufficiently flexible to enable local authorities to truly commission HealthWatch in ways which meet their unique local needs while delivering the functions envisaged by the White Paper. Currently the host organisation is accountable to the Local Authority through a contractual relationship as a commissioning body and a statutory requirement to demonstrate value for money to the Overview and Scrutiny Committee. The LINk is accountable directly to the Department of Health.*

*It would be useful, therefore, if the guidance could ensure that clarity is provided between Health Watch as an organisation and the supporting infrastructure that allows it to operate.*

*The required funding also needs to be in place. The Local Authority needs to be given the freedom and authority to make the commissioning decisions.*

***Q4 What more, if anything, could and should the Department do to free up the use of flexibilities to support integrated working?***

*A general power for the NHS Commissioning Board, GP Commissioning Consortia and Local Authorities to enter into such arrangements for pooled budgets, lead or shared commissioning, and shared models of employment/co-location of services would be important.*

*Models of governance need to be created which are proportionate and avoid the complex arrangements for S75 and learn the lesson from S31. These need to include flexibilities on risk sharing. We would be keen to work closely with Government test new arrangements.*

*A duty on GP Commissioning Consortia to support the Local Authority in delivering its duty to integrate, and a general power of competence for those consortia, would also be advantageous.*

*Specifically, but important to Birmingham we suggest it would be helpful to give consideration to ending the current facility for delayed transfers of care reimbursement arrangements. This would support other key recent and proposed changes to national financial incentives. This could be replaced by a more general duty for local authorities, NHS*

*Trusts, and in future GP Consortia, to co-operate in order to minimise costly hospital admissions and facilitate prompt and safe rehabilitation and discharge. In so doing, all relevant local resources, incentives and targets would need to be taken into account, including the need to minimise excess bed days, hospital readmissions within the short term etc, rather than (as now) risk wasting increasingly scare resource and capacity on local "fining" and associated disputes.*

***Q5 What further freedoms and flexibilities would support and incentivise integrated working?***

*Currently the greatest barrier to integrated working is created through contradictory reporting regimes. We welcome the commitment to simplify reporting structures across the health and social care economy. We also recognise that the ability to develop locally agreed reporting has proved useful in creating a shared sense of prioritisation across agencies.*

*We would welcome the freedom to further develop local priorities and make these binding on partner organisations. This could serve as a useful mechanism for truly embedding the Joint Strategic Needs Assessment within local commissioning decisions.*

*Some of these will only become apparent as we develop, and a general power of competence for the Secretary of State to grant appropriate local freedoms and flexibilities on the basis of a business case for them would be welcomed.*

***Q6 Should the responsibility for local authorities to support joint working on health and wellbeing be underpinned by statutory powers?***

*Yes, the Local Authority should have appropriate concomitant powers to bring agencies together and to require their collaboration. A power to require GP Commissioning Consortia and the NHS Commissioning Board to have regard to the local Joint Strategic Needs Assessment would be important. This would be useful to demonstrate that decisions taken are primarily in the interests of patients and the wider public.*

*Previous experience has demonstrated that a statutory basis for joint working is the only way to achieve cultural change within the timescales that have been outlined. The challenge for such a statutory framework is making it sufficiently robust to provide clear guidance yet flexible enough to reflect local need.*

***Q7 Do you agree with the proposal to create a statutory health and wellbeing board or should it be left to local authorities to decide how to take forward joint working arrangements?***

*Yes, we strongly support this but we would welcome sufficient flexibility for local authorities to determine with their partners any specific local arrangements.*

*We believe that it is essential that Health and Wellbeing Boards have a statutory basis. This will promote better integrated working between partner agencies and reassure public and patients that the proposals have longevity.*

*Providing statutory guidance on the basic structure of the board will be useful to expedite the transition process.*

***Q8 Do you agree that the proposed health and wellbeing boards should have the main functions described in paragraph 30?***

*We believe that leading the Joint Strategic Needs Assessment is a vital role for the proposed Health and Wellbeing Board. In order to better support the application of the Joint Strategic Needs Assessment there is a need for authority to be given to Health and Wellbeing Boards to monitor its implementation. Therefore a function should be created for the Board to assess how commissioning plans are aligned with the JSNA but also to monitor the impact of commissioning against identified need. This would close the loop between identifying priorities and evidencing the fact that they have been addressed.*

*The role to promote partnership working is essential but must be supplemented by the power to require collaboration between agencies where this is in the best interests of residents. For example there will be areas where impact will only be achieved through whole population commissioning. The Health and Wellbeing Board will need to ensure that this is achieved where necessary.*

*Given the important of the Joint Strategic Needs Assessment, the role of the Director of Public Health in relation to the Health and Wellbeing Board will be extremely important.*

*.It is essential that a Scrutiny role in relation to major service redesign is maintained. The involvement of elected Members within this process has proved invaluable in ensuring that residents' views are reflected in proposed changes.*

***Q9 Is there a need for further support to the proposed health and wellbeing boards in carrying out aspects of these functions, for example information on best practice in undertaking JSNAs?***

*The area of JSNA is developing well in Birmingham. Areas for support should focus on local need. In Birmingham this is likely to be supporting GPs in working on the new Board and in ensuring that the NHS Commissioning Board, the Health and Wellbeing Board and GP Consortia understand and collaborate well with each other. Again, we would be keen to work with Government to develop and test new arrangements and ways of working.*

***Q10 If a health and wellbeing board was created, how do you see the proposals fitting with the current duty to cooperate through children's trusts?***

*In Birmingham it is proposed to continue with the Childrens' Partnership arrangements.. Having said that, it will be important to ensure a shared governance focus through the Health and Wellbeing Board for both children and adult. This is needed so that we can maximise*

*efficiencies (by having one set of discussions) and, more importantly, retain our concentration on delivering agreed top joint priorities. We would welcome Government recognising and supporting the need for such a shared whole system focus.*

***Q11 How should local health and wellbeing boards operate where there are arrangements in place to work across local authority areas, for example building on the work done in Greater Manchester or in London with the link to the Mayor?***

*The ability for boards to work jointly and hold joint boards should be incorporated into the arrangements. We already have extensive experience of operating successful health and care governance arrangements across City boundaries. This can be evidenced by, for example, current effective Joint Health Overview & Scrutiny Committees set up with Sandwell and Solihull to consider proposals for the development of maternity services and wider reconfiguration of acute hospital services. In the event that GP Consortia choose to provide and commission services across multiple boundaries this will be particularly useful and important.*

***Q12 Do you agree with our proposals for membership requirements set out in paragraph 38 - 41?***

*Yes, but there should be some local flexibilities and discretion to allow additional or varied membership where circumstances warrant it so that we develop a structure which meets local need.*

*For example, in respect of GP Consortia, Birmingham could end up with a Board that is dominated by Primary Care practitioners. If this situation reduced the input of elected Members then the proposals will have had the opposite effect to that intended.*

*We strongly support the commitment to have the Chair of the board selected by elected Members. Representation of Health Watch on the Board is also welcomed but consideration must be given to how one individual can be seen to represent the views of all residents.*

***Q13 What support might commissioners and local authorities need to empower them to resolve disputes locally, when they arise?***

*A clear pathway for dispute resolution which can be informal, formal and binding as needs allow. The role of local scrutiny in this could be stronger.*

*It is essential that any such disputes are resolved in as timely a manner and as transparently as possible. Quite often the resolution of such disputes are evidence of effective partnership working and reinforce credibility of arrangements.*

*Where arbitration of disputes is required then this should be carried out by a body that is held to have authority by both parties. In the example of a dispute between local authorities and commissioners then elected Members could provide this function. It is essential that those seeking to arbitrate be given the power to resolve disputes and are not required to refer them on to a higher authority.*

***Q14 Do you agree that the scrutiny and referral function of the current health OSC should be subsumed within the health and wellbeing board (if boards are created)?***

*Yes. It makes sense to transfer the statutory functions of the OSC to the health and wellbeing board. Because of their strategic oversight role and to avoid potential duplication of efforts, they would be best placed to scrutinise these services locally. Where concerns arise about service changes, because of their role in promoting integration and partnership working they would be in the best position to attempt to resolve these issues locally in the first instance.*

*The scrutiny function needs to be able to function independently of a board with duties such as those envisaged by the White paper. An important issue will be who scrutinises the Board, and whether a sub-committee of the Board with a scrutiny duty can be set up. Scrutiny is important to Birmingham and we would welcome a continuing flexibility to determine scrutiny arrangements while giving all agencies an obligation to support and collaborate with scrutiny.*

*Discretion needs to be given to Health and Wellbeing Boards to allow them to put in place local arrangements to consider proposed developments and variation of services.*

***Q15 How best can we ensure that arrangements for scrutiny and referral maximise local resolution of disputes and minimise escalation to the national level?***

*The Health and wellbeing board need to make sure that they do what the former Health OSC did and monitor consultations properly and in a timely way. They need to make sure that systems are in place to do proper consultation and that they are made aware at an early stage of consultations which are happening or planned. This will mean that if they become aware of problems they can often be dealt with as part of the consultation process and , if necessary, they could even ask for the consultation to be carried out again. This should enable them to iron out any problems at an early stage. It may even be useful to provide a specific power for them to require a consultation to be done again. This will avoid issues needing to be escalated to the Secretary of State.*

*Birmingham has developed a system for setting out the main factors underlying service change which has been adopted by other Local Authorities. This process has minimised the number of issues that are likely to be escalated but could be further developed.*

*The principle barrier to local resolution is the lack of any local decision making body that can arbitrate a dispute. As mentioned previously, this function has been carried out informally by Strategic Health Authorities but it would be useful to develop a more tangible solution. It would be helpful to provide clear guidance on this.*

***Q16 What arrangements should the local authority put in place to ensure that there is effective scrutiny of the health and wellbeing board's functions? To what extent should this be prescribed?***

*We welcome the fact that the consultation paper quite rightly and explicitly recognises that public scrutiny is an essential part of ensuring that government and public services remain effective and accountable. This means that, even after the referral function of the current Health OSC is subsumed within the health and wellbeing board, a formal health scrutiny function will continue to be important within the local authority. Indeed, when the PCTs cease to exist and responsibility and funding for local health improvement activity is transferred to the local authority, this role will be even more crucial.*

*The local authority therefore needs to ensure that it has an adequate process in place to scrutinise the functioning of the health and wellbeing board and health improvement policy decisions. We believe it would be helpful to prescribe that there should be a health scrutiny committee and it should be clearly set out that they have the right to request information from and to require the attendance at the scrutiny committee, of the members of the health and wellbeing board. This would facilitate the process of adequately scrutinising the workings of the health and wellbeing board.*

# 5. General comments on other consultation papers

## *Commissioning for patients*

The City Council and other key partners have much to offer and support GP consortia eg in relation to commissioning, procurement, promoting choice and diversity, maximising resident input and engagement, public accountability, securing efficient governance arrangements and harnessing national best practice across a range of activity. Whilst, clearly, what consortia wish to secure and how, we will make sure they are aware of the options and find the most effective mechanisms to have these transitional discussions.

However, with regard to the provision of key support services to GP consortia specifically – such financial, HR, IT, etc – we would urge DH and HM Treasury give early consideration to the VAT issues around these services. Regardless of who provides these services (private, 3rd sector or statutory sector), there may be a risk of an extra 21% cost having to be absorbed on top of other cost pressures, that can be ill-afforded, and efficient and effective integration being curtailed. If blanket "dispensation" is not an option, an alternative way forward on this issue could be to introduce a case-by-case approval mechanism – although that should be proportionate.

The City Council fully understands and respects the need for GPs themselves to decide how they wish to organise themselves into consortia. However, the size and geographical coverage of the new consortia are of crucial importance to local authorities, particularly after their proposed new health and wellbeing leadership responsibilities are being carried out. We would, therefore, request that the national guidance to GPs and their representatives asks them to give serious consideration to organising consortia coverage to be consistent with local authority boundaries, wherever possible. We believe that more common boundary working would optimise efficiency and effectiveness around the integration of service delivery and commissioning.

## *Transparency in outcomes: a framework for the NHS*

We strongly support the direction of travel here and the proposed transitional arrangements appear to be sensible and practical. We would urge that a common national health and social care framework is developed. More specifically, we are particularly supportive of seeing joint targets for health inequalities and improvement, and would like to see emphasis placed on childrens'/early years issues and joint support for carers.

## *Regulating healthcare providers*

The City Council would expect to be involved in the discussion about ensuring we get the right balance between full and proper public accountability, ensuring personalisation is brought centre stage into this, whole-system performance management, and minimising the burden of inspection and regulation locally.

We would wish to see OSC to continue to have oversight of eg any proposals for Foundation Trust mergers and similar major structural changes, and also have explicit links to relevant aspect of the proposed expanded role for Monitor eg in relation to any potential special transitional administration arrangements for Trusts in exceptional circumstances .

We need to understand better the detail of the proposals for CQC to host the new HealthWatch organisation and how that can work to best effect locally.

## *Achieving equity and excellence for Children*

We have assumed throughout this document that Children and Young People will be an integral part of the Health and Wellbeing Board arrangements for Birmingham. They will also be at the forefront of our public health agenda. We welcome both *Achieving equity and excellence for Children* and the Kennedy Report.

We have a challenging agenda in Birmingham for Children. We are working on the findings of the recent joint CQC and OFSTED inspection and resulting action plan. These reiterated the conclusions of our own Scrutiny report on safeguarding and again made it abundantly clear that there is still a great deal to do to ensure children are safeguarded effectively in Birmingham.

From the actions we have taken, we recognise the importance of an effective strategy and commissioning approach which ensures children and young peoples' commissioning structures deliver the outcomes needed for them.

This is our top priority. We recognise that the opportunities and challenges in the White Paper, and in particular *Achieving equity and excellence for Children,* can help. We welcome the thrust of the Kennedy report being included in the proposed Health and Wellbeing Board arrangements and the duty to integrate.

We would also welcome in emerging guidance for GP consortia a requirement on GP Consortia to ensure they have robust arrangements in place to enable commissioning for children and young people to be effective. This would entail consideration of how they work with local authority functions, the importance of the JSNA and taking direct action from the JSNA conclusions and suggested priorities.

Our experience of working to develop effective arrangement in Birmingham would suggest to us that sufficient discretion should be given to local arrangements within the above minimum framework.