



Association of Directors of Public Health (UK)

## Association of Directors of Public Health – response to the Health & Social Care Bill 2011

The Association of Directors of Public Health (ADPH) is the representative body for Directors of Public Health (DPH) in the UK. It seeks to improve and protect the health of the population through DPH development, sharing good practice, and policy and advocacy programmes. [www.adph.org.uk](http://www.adph.org.uk)

ADPH has a strong track record of collaboration with other stakeholders in public health, including those working within the NHS, local authorities and other sectors. We have worked closely with colleagues in local authorities – particularly Directors of Adult Social Services (DASS) and Children’s Services (DCS) – and with IDeA (now LGID) developed work on effective joint working in local authorities between DPH, DASS and DCS (*Leading Together Better*)<sup>1</sup>.

ADPH submitted views during consultation on the White Paper *Liberating the NHS* and the associated consultation documents. In this submission we raise areas of concern that we believe require urgent consideration and clarification in relation to Parliament’s consideration of the Health & Social Care Bill.

We recognise that the Health & Social Care Bill and Public Health White Paper raise huge opportunities for public health and we welcome the increased formal role of Local Authorities in the health agenda. The integration of local Directors of Public Health into Local Authorities also opens the chance of real improvements in health and well-being. However, with such changes there are also risks. England needs an integrated system for delivery of public health outcomes, and we are concerned that there is a significant risk that the proposals could have adverse effect in:

- fragmentation of the public health workforce across a number of organisations;
- fragmentation of commissioning and finance responsibility for public health programmes;
- fragmentation and loss of clarity on accountability, particularly in the area of health protection.

In this submission, we seek to highlight key issues that we believe will need to be addressed to mitigate these risks and to ensure:

- real improvements in health care services and outcomes;
- improving health and the reduction of health inequalities;
- and strengthened health protection and resilience.

We welcome the opportunity to work with Ministers and the Department of Health to achieve transformational change that will improve outcomes in the three public health domains of health improvement, health protection, and health care service planning and commissioning.

### 1. Overview – public health and local government organisations

The Health and Social Care Bill represents a major restructuring, not just of health care services, but also of local authority responsibilities in relation to public health, health improvement and health protection and the coordination of health and social care. Recognising this fundamental change and the opportunities - and risks - that it presents for improving the health of the public, ADPH along with eight organisations<sup>2</sup> representing public health specialists and local government have

<sup>1</sup> [http://www.adph.org.uk/downloads/policies/Leading\\_together\\_better\\_brochure\\_Final.pdf](http://www.adph.org.uk/downloads/policies/Leading_together_better_brochure_Final.pdf)

<sup>2</sup> The Local Government Group, Royal College of Physicians, Public Health Medicine Committee of the British Medical Association, Royal Society for Public Health, Royal College of Nursing, Chartered Institute of Environmental Health, Association of Directors of Public Health, Faculty of Public Health and the UK Public Health Association

joined to discuss the Bill. All involved recognise the important role that local authorities have to play in improving the health of the public and are keen to develop effective working relationships – and in doing so are calling for:

- **urgent clarification on funding arrangements for public health;**
- **safely managed transition arrangements which avoid the loss of vital expertise;**
- **a clearer picture of what functions go where, minimal direction from the centre and early resolution of very complex resource issues;**
- **and most importantly that no action should be taken that threatens or undermines the good work that already takes place across the country on integrated health and social care delivery.**

## **2. Protecting and promoting the health of the local population**

We believe that local authorities should be responsible for protecting and improving the health of their populations at all times, including during outbreaks and emergency situations. Public Health England should support local authorities in doing this, and local authorities should be required to use the skills and expertise of public health specialists to deliver health and wellbeing for their local population.

**However we are very concerned that neither the Health & Social Care Bill (nor the Public Health White Paper) articulate these responsibilities clearly. This puts the public at serious risk, particularly in emergency or epidemic situations. We believe that the following responsibilities are so important that they should be defined in primary legislation:**

- **Local authorities should be responsible for protecting and improving the health of their populations at all times, including during outbreaks and emergency situations.**
- **Public Health England should support local authorities in discharging this responsibility.**
- **Local authorities should be required to use the skills and expertise of public health specialists to deliver health and wellbeing for their local population.**

## **3. Public Health England**

Public Health England should:

- Be able to offer independent scientific evidence-based advice to national and local government, the NHS and the public on all matters relating to the maintenance, improvement and protection of health;
- Provide effective, expert and adequately-resourced specialist PH capacity to support the work of the Director of Public Health and their teams;
- Be able to provide independent scientific evidence-based advice and guidance to the devolved nations where they are unable to access this locally;
- Be able to generate revenue from external consultancy and academic research funding.

**ADPH is concerned that it is unlikely that these aims can be achieved if Public Health England becomes a fully-integrated part of the Department of Health. We would suggest that consideration be given to establishing Public Health England out-with the civil service – for example as a NHS Special Health Authority or as an Executive Agency of the Department of Health. This could offer a more practical and acceptable way forward, and would:**

- **facilitate the employment of public health staff by Public Health England**
- **enable pooling of scarce and specialist capacity**
- **enable the continuance of external income streams that currently support national health protection activity**

- facilitate the separation of science from policy and therefore re-enforce the independence of Directors of Public Health and health protection for the populations' health and protection.

We are also concerned that there must be clear lines of accountability, communication and access between Public Health England, GP consortia, NHS and Directors of Public Health working within local authorities.

#### 4. Role of the Director of Public Health

Directors of Public Health are the frontline leaders of public health input into the three domains of health improvement, health protection, and health care service planning and commissioning. Directors of Public Health must be enabled - through primary legislation - to provide oversight and influence across all these determinants of health within local authorities, the NHS and primary care, and other appropriate sectors and agencies in order to secure the improving health of their population.

Directors of Public Health will need clearly defined responsibilities and powers which can be summarised as follows.

- The **professional status** and enablement to express an independent view in order to provide advocacy for the health of the population. This is analogous to the requirement for local authorities to appoint a suitably qualified officer responsible for the proper administration of its financial affairs in section 151 of the Local Government Act 1972.
- A requirement to produce an independent, public annual report on the health and health needs of the population (as provided for in the draft Bill); and **authority** to comment publicly in a professional capacity on matters pertinent to the health of the local population.
- The **authority** to influence all the levers that impact on health and well-being and to act as a **statutory and principal advisor** (across the three public health domains) to the Health and Well Being Board.
- **Corporate/Strategic Director** status – the ability to act at corporate/strategic level within the Local Authority structure (as a full voting member of the corporate leadership team and reporting or accountable to the CEO or equivalent), with direct access to the local authority Cabinet and councillors; have credibility to engage externally; influence across all Local Authority functions and tiers; to work alongside other Directors; develop and promote corporate policy; and contribute to whole organisational decisions.

We are concerned that whilst the Health & Social Care Bill makes reference to the duties to be discharged by an individual in the post of Director of Public Health, it does not seek to regulate appointments to these posts, as currently happens. This removes an important area of public protection.

ADPH is very concerned that, as currently drafted, the Health & Social Care Bill (and the Public Health White Paper):

- would allow someone with no relevant training or qualification to be appointed as a Director of Public Health;
- do not require that the Director of Public Health should have direct access to the cabinet, councillors or to the CEO.
- do not provide clarity over the relationship between the Director of Public Health and Public Health England; and appear to be unclear as to whether the appointment of Directors of Public Health within local authorities are to be made jointly with the Secretary of State for Health or with Public Health England;
- could allow for a Director of Public Health to have their employment terminated without the approval either of PHE or of the Secretary of State for Health.

**ADPH therefore strongly believes that:**

- **A Director of Public Health should be an individual trained, accredited, and registered in specialist public health;**

- The Director of Public Health should be a statutory appointment, working at corporate/strategic director (top team) level as a full voting member of the corporate leadership team with direct access to the local authority Cabinet and councillors – influencing and working alongside other Local Authority Executive Directors and normally reporting or accountable to the CEO or equivalent;
- The Director of Public Health should be recognised as the principal adviser on all health matters to the local authority, its elected members and officers, and including the Health & Well Being Board, on the full range of local authority functions and their impact on the health of the local population as stated in Annex A of the White Paper *Healthy Lives, Healthy People*;
- The professional status of the Director of Public Health and ability to express an independent view in order to advocate for health improvement and reducing health inequalities within their local population and act for the protection of the local population - and the independent DPH annual report - must be protected;
- Directors of Public Health should:
  - be appointed jointly by the local authority and Public Health England, through a statutory appointments process which mirrors the existing Advisory Appointments Committee process for Directors of Public Health and Consultants/Specialists in Public Health – and which is accredited by the Faculty of Public Health (as is currently the case).
  - have a formal contractual relationship and role – which could be honorary – with Public Health England
  - have their employment terminated only with approval of both the local authority and the Secretary of State for Health.

## 5. Health & Well Being Boards

ADPH is concerned that the Bill does not grant sufficient powers to Health and Well Being Boards:

- the powers granted to Health and Well Being Boards are weak and there is a risk that health and social care integration may be more difficult to achieve.
- The Boards have not been granted sufficient powers to meet the expectation that they will join up commissioning between the NHS and local authorities. The interface between GP consortia and local authorities will be critical in ensuring that services meet the full range of local population health needs, however while Consortia must consult Boards in drawing up their commissioning plans, there is no requirement for Consortia to have regard to the views of the Board.

**ADPH believes that local commissioning plans should be subject to scrutiny and comment by the Health and Well Being Board – and to greatest effect would also be signed off by the Board.**

**The Director of Public Health should act as a principal advisor to the Health and Well Being Board for public health advice across the three public health domains of health improvement, health protection, and health care service planning and commissioning.**

**It is important that in two tier authorities the existing health and well-being partnerships continue to work together for the health and well-being of the local population. We believe that District Authorities should have specific roles and duties for the improvement and protection of health.**

## 6. GP Consortia and commissioning

We are concerned that the Health & Social Care Bill:

- lacks clarity over who will be responsible for providing 'local system leadership' and planning services across GP consortia boundaries following the abolition of strategic health authorities (SHAs) and primary care trusts (PCTs).

- includes few requirements on the governance of consortia. As recently highlighted by the Health Select Committee, it is essential that consortia include a wide range of health professionals and involve the public in their work. While the Bill includes a limited duty on consortia to involve the public, it does not specify a need for them to include other health professionals.
- does not require GP consortia to promote integration between health and social care – an omission that will be exacerbated by the potential lack of co-terminosity between consortia and local authorities.
- does not appear to place a duty on GP consortia to promote and protect the health of their local health population. This lack of clarity over the role of GP consortia in promoting and protecting population-wide health could result in the NHS not giving it sufficient priority with consequent risks to health outcomes.

Specialists working in health services public health possess skills that are highly specialised, not held within the General Practice or health service management communities and not widely available from commercial suppliers. The essential role of this group in the commissioning of health services by Commissioning consortia (and the NHS Commissioning Board) has not been grasped in the proposals in the Bill. The current position is that the Bill requires commissioners to take advice only from those with “professional expertise relating to the physical or mental health of individuals”.

**The requirement for commissioners to take advice should be extended to ensure that commissioners receive support from those with skills and expertise in health services public health.**

**GP Consortia should be required to work through and with Directors of Public Health to ensure Consortia decision-making is underpinned by expert, professional public health advice.**

**GP Consortia (and the National Commissioning Board) should be responsible for improving inequalities of health outcome rather than just inequalities of access to health services.**

**In order to promote coherent response to emergencies, GP Consortia should assume similar responsibilities as category 1 responders under Civil Contingency Act that have previously applied to Primary Care Trusts.**

**Commissioners should be required to demonstrate the use of a strategy covering high quality, universal services, targeted services for communities of interest at greater risk especially deprived communities and tailored services for people with multiple and complex needs. This should be underpinned by evidence base, public health intelligence and needs assessments.**

## **7. Provider organisations**

To fully realise the transformational change envisioned in the Health & Social Care Bill, we believe there is a need to extend public health influence within provider organisations. We believe that there are huge benefits that derive from having a public health lead working within Trusts.

**We would welcome measures that would enable and encourage provider trusts to work with local authorities in improving the health of the population.**

For example, we have in the past expressed concerns over the accumulation of excessive financial reserves in Foundation Trusts, and suggested that above a capped level of reserves, an annual proportion of the reserves could be spent on initiatives agreed locally as providing health gain for the population.

In 2010 ADPH surveyed its members on progress with the introduction of *Transforming Community Services*, and results from this survey highlighted that:

- Care must be taken that in any re-organisation the impact on public health services should be assessed - this is particularly true for emergency planning and response.
- Where possible there should be a named public health lead in community services.
- public health expertise should be readily available to provider services where no public health lead is in place.

## 8. Regulatory organisations

In strengthening the role of the Care Quality Commission, and developing the role of Monitor, we would wish to see clear lines of public health input into both organisations, and specifically:

- **public health expertise and input at a high level within the Care Quality Commission to ensure a strong population perspective in quality regulation;**
- **public health expertise and input into Monitor to ensure effective use of resources in support of the prevention agenda health improvement and a reduction in health inequalities.**

## 9. Health inequalities

We welcome that the Bill includes new duties on the Secretary of State, NHS Commissioning Board and GP consortia to have regard to the need to reduce health inequalities. However these duties are narrowly drawn, only applying to the role of the NHS in providing services to patients. The duties do not reflect the broader role of the NHS in promoting public health as a provider, commissioner and major employer. There are also no equivalent duties on the Secretary of State or local authorities in respect of their roles in promoting public health.

**ADPH is concerned that the duties are unlikely to be sufficient to ensure that tackling health inequalities is prioritised in the health system.**

The NHS Atlas of Variation published last year, showed significant geographical differences in care<sup>3</sup>. We are concerned that the proposed new system should not result in service fragmentation, which would have detrimental impacts on the very areas the Bill's reforms seek to improve: the quality of services, education and training, patient choice, efficiency and equity. It also has the potential to exacerbate any existing postcode lottery in health services.

**Association of Directors of Public Health  
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<sup>3</sup> <http://www.rightcare.nhs.uk/atlas/>