

**Title of meeting:** Governance & Audit & Standards / Full Council

**Date of meeting:** 14<sup>th</sup> March / 19<sup>th</sup> March

**Subject:** Health and Wellbeing Board Constitution

**Report From:** Director of Adults Services

**Report by:** Matthew Gummerson, Principal Strategy Adviser

**Wards affected:** All

**Key decision:** No

**Full Council decision:** Yes

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## **1. Purpose of report**

- 1.1.** To seek approval of the constitution for the Health and Wellbeing Board as it assumes its statutory responsibilities from 1<sup>st</sup> April 2013. The (shadow) Health and Wellbeing Board will be asked to support the change to its constitution for approval by Full Council. Governance, Audit and Standards Committee will be asked to support the consequent constitutional change.

## **2. Recommendations**

- 2.1.** **Full Council is recommended to approve the constitution for the statutory Health and Wellbeing Board attached as appendix A to apply from 1<sup>st</sup> April 2013 as set out in the Health and Social Care Act 2012.**
- 2.2.** **Governance and Audit and Standards Committee are asked to support the consequent constitutional change and to give authority to the City Solicitor to include wording in the Standing Orders to allow appropriate appointments to the Health and Wellbeing Board to be made at Annual Council**

## **3. Background**

- 3.1.** Health and Wellbeing Boards (HWBs) were introduced as part of the Health and Social Care Act 2012. They are statutory (from 1<sup>st</sup> April 2013) in all upper tier local authorities in England, bringing together Elected Members, key council

officers, the Clinical Commissioning Group, the NHS Commissioning Board and local Healthwatch to develop a Joint Strategic Needs Assessment and deliver it through a Joint Health and Wellbeing Strategy.

- 3.2. The HWB is a committee of the council. Portsmouth has been running a 'Shadow' HWB during 2012/13, whose constitution was approved by Full Council on 20<sup>th</sup> March 2012 to cover the period up to 31<sup>st</sup> March 2013. The government published 'The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013' on 8<sup>th</sup> February 2013. These regulations covered issues including voting rights for non-councillors and political proportionality where the 2012 Act required amendments to earlier legislation. Based on the Shadow Board's experience during 2012/13, and considering the options available under legislation, the following changes to the constitution of the Shadow Board are recommended.
- 3.3. The 'Aims' of the board should be updated to reflect changes that have taken place since they were drafted. The HWB has a duty to promote integration between health and social care which needs to be reflected in the aims, while the CCG have achieved authorisation as part of the first wave of CCGs to do so.
- 3.4. The statutory regulations allow changes to be made to the membership of the HWB that have previously been agreed as desirable by the shadow board. If so directed by the council, the statutory membership of the board for the Director of Children's Services and the Director of Adults Services can be retained but without voting rights, thus allowing the previously agreed principle that 50% of the 'voting' membership of the board must be Elected Members to be maintained.
- 3.5. The Shadow Board have recommended that the chairing arrangements change from joint-chairs to a clearer Chair and Vice-Chair arrangement, with the Lead Member for Health and Social Care as Chair and the Clinical Lead from the CCG as Vice-chair.
- 3.6. The provision for questions from the public should be left at the discretion of the Chair and it is therefore proposed to remove this section from the board's constitution. This has been used during recent meetings to allow the meetings to be engaging for the public and other stakeholders who do attend. The council's standing orders on deputations from the public will still apply - including additional time for questions in the constitution is arguably both confusing and unworkable.
- 3.7. These changes have been incorporated into the proposed Constitution for the Health and Wellbeing Board at appendix A.

#### **4. Reasons for recommendations**

- 4.1. Full Council is recommended to support these proposals as they will support the Health and Wellbeing Board to operate effectively and enable the council to fulfil its statutory requirements with regard to the Health and Wellbeing Board from 1<sup>st</sup> April 2013.

- 4.2. The recommendations have been developed with the full involvement of the portfolio holder for health and social care and agreed in principle by the CCG representatives on the Shadow Board.

## **5. Equality impact assessment (EIA)**

- 5.1. A preliminary EIA has been completed, indicating that there is no requirement for a full EIA at this stage.

## **6. City Solicitor comments**

- 6.1 The operative regulations, referred to at paragraph 3.2 above, establish a number of key flexibilities and effect a number of changes to the legislation governing committees, membership, and participation. These enable the stakeholders to engage in the way envisaged by the suggested “constitution”.
- 6.2 While the “constitution” establishes an initial point of departure for the work of the Board, it will be important for the board to engage the City Solicitor as clerk to the committee to develop detailed terms of reference, to determine:
- 6.2.1 Interface protocols with internal and external parties.
- 6.2.2 Possible lead authority arrangements
- 6.2.3 Arrangements for, in particular, declarations of pecuniary interests to be made by co-opted members on taking office, and appropriate training to be provided.
- 6.2.4 It is open to the HWB to assume direct functional responsibility for commissioning social care or public health, via its lead authority. This is a matter which the board may wish to discuss in the early days of its establishment.

## **7. Head of finance’s comments**

- 7.1. There are no immediate significant financial implications resulting from the recommendation to this report. However, whilst it is difficult to quantify, any improvement in the health and wellbeing of our residents has the potential to yield financial benefits to the City Council and other public sector partners through reduced demand for services and efficiency gains where NHS, City Council and other services are able to act in a more co-ordinated way.

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Signed by: Margaret Geary, Strategic Director and Director of Adults Services

**Appendices:**

Appendix A - –constitution for Portsmouth’s Health and Wellbeing Board

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: Name and Title

Appendix A –constitution for Portsmouth’s Health and Wellbeing Board

**Constitution for Portsmouth’s Health and Wellbeing Board from 1<sup>st</sup> April 2013**

1. Aims

- 1.1 The Health and Wellbeing Board (HWB) will provide strategic leadership to improve the health and wellbeing of the population of Portsmouth through the development of improved and integrated health and social care services along with a range of other public service dependencies, including public health and children’s services. It will:
- a) Identify health and wellbeing needs and priorities across Portsmouth, and oversee the refresh and publication of the Joint Strategic Needs Assessment (JSNA) to support evidence-based prioritisation, commissioning and policy decisions.
  - b) Prepare and publish a Joint Health and Wellbeing Strategy (JHWS) for approval by the city council and Portsmouth Clinical Commissioning Group (CCG), which sets objectives and describes how stakeholders will be held to account for delivery, taking account of the JSNA and Director of Public Health Annual Report as well as national policy developments and legislation.
  - c) Encourage integrated working between health and social care and oversee, where appropriate, partnership arrangements under the NHS Act such as pooled budgets.
  - d) Oversee, where appropriate, the use of resources across a wide spectrum of services and interventions, to achieve its strategy and priority outcomes and to drive a genuinely collaborative approach to commissioning, including the co-ordination of agreed joint strategies.
  - e) Support the inclusion of the voice of the public, patients and communities in the setting of strategic priorities, including (but not solely) through the involvement of local Healthwatch.
  - f) Communicate and engage with local people in how they can achieve the best possible quality of life and be supported to exercise choice and control over their own personal health and wellbeing.

2. Membership

- 2.1 Membership of the HWB shall reflect the principle that at least 50% of its voting membership shall comprise elected local councillors. It is anticipated that membership of the HWB may change over time but the principle that elected Members retain 50% of the votes on the board will remain.
- 2.2 The members of the HWB with voting rights shall comprise the following:
- Lead Member for Health and Social Care (Chair)
  - Clinical Commissioning Group Chief Clinical Officer\* (Vice-Chair)
  - Clinical Commissioning Group nominated Clinical Executive Member\*
  - Lead Member for Children’s Services
  - Two additional nominated Members of the council's ruling administration
  - Two nominated Members of the opposition
  - Director of Public Health

- Clinical Commissioning Group Chief Operating Officer\*
- Healthwatch nominated representative\*
- NHS Commissioning Board (Wessex) nominated representative\*

2.3 The members of the HWB who do not have voting rights but are otherwise full members of the board are as follows:

- Chief Executive of Portsmouth City Council
- Director of Children's Services
- Director of Adult Social Services

\*voting rights for co-opted members on what is a committee appointed under section 102 of the Local Government Act 1972 are provided for in Statutory Regulations published in February 2013 "unless the local authority which established the board otherwise directs" and "before making a direction [to empower co-opted members], the local authority must consult the Health and Wellbeing Board"<sup>1</sup>. The provisions above are therefore subject to direction from the council in consultation with the board.

### 3. Chairing arrangements

- 3.1 The HWB will appoint the Lead Member for Health and Social Care at the City Council as the Chair of the HWB and the Chief Clinical Officer of the CCG as Vice-chair of the HWB.
- 3.2 In the event that neither Chair nor Vice-chair is present but the meeting is quorate, the voting members present at the meeting shall choose a chair from amongst their number for that meeting.

### 4. Quorum

- 4.1 It is important that sufficient members are present at all meetings so that decisions can be made and business transacted. The quorum for the Board will comprise of four voting members and must include at least one voting Member from the City Council and one voting member of the CCG. If a meeting has fewer members than this figure it will be deemed inquorate - matters may be discussed but no decisions taken.

### 5. Substitutes

- 5.1 Nominating groups may appoint a named substitute member for each position. Substitute members will have full voting rights when taking the place of the ordinary member for whom they are designated substitute.

### 6. Appointments

- 6.1 In line with the Health and Social Care Act, before appointing another person to be a member of the Board (other than those that are statutorily obliged to be a member) the local authority must first consult the Health and Wellbeing Board. Nominations by the local authority must be in accordance with the Act.

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<sup>1</sup> The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 No.218 regulation 6

7. Decisions and Voting

- 7.1 The HWB will be accountable for its actions to its individual member organisations and representatives will be accountable through their own organisation's decision making processes for the decisions they make.
- 7.2 It is expected that decisions will be reached by consensus, however, if a vote is required any matter will be decided by a simple majority of those members voting and present in the room at the time the motion is put. This will be by a show of hands, or if no dissent, by the affirmation of the meeting. If there are equal votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- 7.3 Decisions within the terms of reference will be taken at meetings and will not normally be subject to ratification or a formal decision process by partner organisations. However, where decisions are not covered by the HWB's statutory functions and power or within the delegated authority of the Board members, these will be subject to ratification by constituent bodies.

8. Status of Reports

- 8.1 Meetings of the Board shall be open to the press and public and the agenda, reports and minutes will be available for inspection at Portsmouth City Council's offices and on the City Council's website at least five working days in advance of each meeting. This excludes items of business containing confidential information or information that is exempt from publication in accordance with Part 5A and Schedule 12A to the Local Government Act 1972 as amended.

9. Members' Conduct

- 9.1 With the exception of those referred to at 9.2 below, the Councillors Code of Conduct of Portsmouth City Council will apply to all Board members, and such members should note in particular the obligations relating to Disclosable Pecuniary Interests (so described within the Councillors Code of Conduct), which they must declare upon appointment to the committee to the Monitoring Officer (unless they have made such a declaration).
- 9.2 The Code of Conduct for Employees of Portsmouth City Council will apply to all Board members who are officers of Portsmouth City Council.
- 9.3 The Monitoring Officer of Portsmouth City Council shall provide Board members with guidance in relation to these provisions

10. Review

- 10.1 This constitution and any conflicts of interest will be reviewed as and when required but at least annually.