

Agenda item: 

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

**Date of meeting:** 13<sup>th</sup> March / 17<sup>th</sup> March 2015

**Subject:** Health and Wellbeing Board Constitution

**Report From:** Director of Children's Services and 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 changes to the constitution for the Health and Wellbeing Board (HWB). The HWB have requested the changes to its constitution for approval by Full Council to improve the effectiveness of the HWB as it fulfils its leadership role across the health and wellbeing system locally. 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 changes to the constitution for the Health and Wellbeing Board set out below.**
- 2.2. Governance, 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 in all upper tier local authorities in England, bringing together Elected Members, key council officers, the

Portsmouth Clinical Commissioning Group (PCCG), 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 and has been formally established as such since April 2013.
- 3.3. The statutory regulations allow changes to be made to the membership of the HWB that have previously been agreed as desirable by the HWB. If so directed by the council, this allows voting rights to be withdrawn from statutory members of the board (for example the Directors of Children's Services, Adults Services and Public Health) and other partners. This enables voting on certain matters (part b items) to be restricted if necessary, ensuring that on such matters Elected Members from the council and PCCG's nominated representatives retain an equal voting share.

#### **4. Proposed changes recommended by the HWB**

- 4.1 That the chairing arrangements change from a Chair and Vice-Chair arrangement to joint chairing, with the Lead Member for Health and Social Care and the Clinical Lead from PCCG alternating chairmanship of the HWB on an annual basis.
- 4.2 In order to ensure the HWB constitution is able to adapt to future requirements, that provision is made for voting on certain matters to be restricted to the four Elected Members from PCC and the four representatives of PCCG. This reflects the current principle that 50% of voting membership shall comprise elected local councillors while allowing greater flexibility to broaden the membership. The legislation allows the council to delegate a wide range of executive functions to the HWB, and integrated budgets across health and social care (e.g. through section 75 agreements) are an increasingly important part of the commissioning picture.
- 4.3 That additional key stakeholders in the local health and wellbeing system should be invited to join the HWB in order to secure the widest possible engagement with, and buy-in to, the strategic direction set by the HWB. These additional stakeholders are the largest local providers of acute and community NHS services, and a local voluntary and community sector organisation (reflecting the vital role the VCS play in delivering health and wellbeing services):
- Portsmouth Hospitals NHS Trust
  - Solent NHS Trust
  - A representative of the local voluntary and community sector nominated by Portsmouth Voluntary and Community Network
- 4.4 These changes have been incorporated into the revised Constitution for the Health and Wellbeing Board at appendix A.

## **5 Reasons for recommendations**

- 5.2 Full Council is recommended to support these proposals as they will support the Health and Wellbeing Board to operate effectively and continue to enable the council to fulfil its statutory requirements with regard to the Health and Wellbeing Board.
- 5.3 The recommendations have been developed with the full involvement of the Leader of the Council and the Lead Member for Health and Social Care and agreed in principle by all members of the HWB including PCCG's representatives.

## **6 Equality impact assessment (EIA)**

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

## **7 City Solicitor comments**

- 7.1 The Health and Social Care Act 2012 (the Act), s194, specifies a number of required appointees to Health and Well-being Boards. These include:

- a) At least one councillor appointee
- b) The director of adult social services
- c) The director of children's services
- d) The director of public health
- e) A representative of the Local Health Watch organisation
- f) A representative of each relevant clinical commissioning group for the area
- g) Such other persons as are considered appropriate

The Act requires that members nominated by the Council must be nominated by the Leader, unless the Leader appoints herself.

The Act requires that the Council must consult the Health and Wellbeing board before appointing persons under g) above.

## **8 Head of finance's comments**

- 8.1 There are no direct financial implications arising as a result of this report.

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Signed by: Director of Children's and 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 – revised constitution for Portsmouth’s Health and Wellbeing Board (March 2015)

## **Constitution for Portsmouth’s Health and Wellbeing Board**

### 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 fact that the HWB has a role in setting strategic direction for the whole health and care system. It will also contain provisions that allow it to be given greater executive powers on behalf of the city council and in partnership with the CCG, with provision for voting on certain matters to be reserved. Those items on which all members of the HWB can vote shall be termed 'part A items' while those on which voting is reserved shall be termed 'part B items'.
- 2.2 The members of the HWB, who shall have voting rights on all non-reserved items (part a items) shall comprise the following:
- Lead Member for Health and Social Care (Joint-Chair)
  - Clinical Commissioning Group Chief Clinical Officer\* (Joint-Chair)
  - Lead Member for Children’s Services

- Leader of the Council (or their nominated representative)
- Leader of the largest opposition group (or their nominated representative)
- Clinical Commissioning Group Chief Operating Officer\*
- Two nominated CCG representatives chosen by the CCG Board
- Director of Public Health
- Director of Adults Services
- Director of Children's Services
- Healthwatch Portsmouth nominated representative\*
- NHS Commissioning Board (Wessex) nominated representative\*
- Portsmouth Hospitals NHS Trust nominated representative\*
- Solent NHS Trust nominated representative\*
- Portsmouth Voluntary and Community Network representative

2.3 The members of the HWB who have reserved powers to vote on 'part B items' are as follows:

- Lead Member for Health and Social Care (Joint-Chair)
- Clinical Commissioning Group Chief Clinical Officer\* (Joint-Chair)
- Lead Member for Children's Services
- Leader of the Council (or their nominated representative)
- Leader of the largest opposition group (or their nominated representative)
- Clinical Commissioning Group Chief Operating Officer\*
- Two nominated representatives from Portsmouth's Clinical Commissioning Group

\*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 and the Chief Clinical Officer of the CCG as joint chairs of the HWB, with chairmanship alternating between the two on an annual basis. The other joint-chair shall act as vice chair during that year.
- 3.2 In the event that neither Chair nor Vice chair are present but the meeting is quorate, the voting members present at the meeting shall choose a chair for that meeting from amongst their number who has power to vote on 'part B items'.

### 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

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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

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.

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.
- 7.4 Decisions within the current terms of reference will be deemed 'part A items'. In the event that the city council or the CCG delegate additional decisions to the HWB, it will be for the delegating authority to determine whether these are deemed 'part B items' with reserved voting rights as set out above.

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.