Portsmouth CITY COUNCIL

Title of meeting:	Health and Wellbeing Board
Date of meeting:	21st September 2022
Subject:	Health and Wellbeing Board - constitution update and draft DHSC guidance on future role
Report by:	David Williams, Chief Executive, Portsmouth City Council
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

1.1 To present to the Board with a summary of draft guidance on the future role of Health and Wellbeing Boards; and recommend a revised constitution.

2. Recommendations

2.1 The Health and Wellbeing Board is recommended to:

- Note the proposals in the draft guidance on Health and Wellbeing Boards and the response from the Joint Chairs at Appendix 1;
- Agree the revised constitution at Appendix 2.

3. Background

3.1 In July 2022, the Department for Health and Social Care (DHSC) issued draft guidance for engagement on health and wellbeing boards (HWBs), setting out the role of HWBs following the publication of the Health and Care Act 2022 and the Health and social care integration: joining up care for people, places and populations white paper (published February 2022).

3.2 The draft guidance document recognises that Health and wellbeing boards have been a key mechanism for driving joined-up working at a local level since they were established in 2013. The Health and Care Act 2022 has introduced new architecture to the health and care system, specifically the establishment of integrated care boards (ICBs) and integrated care partnerships (ICPs).

3.3 The document states that in this new landscape, HWBs continue to play an important role as a key mechanism for:

- joint working across health and care organisations
- setting strategic direction to improve the health and wellbeing of people locally

3.4 DHSC will be updating the guidance on the HWBs general duties and powers following engagement with key stakeholders.

4. Key points of the guidance

4.1 The document affirms that HWBs:

- provide a strong focus on establishing a sense of place
- instil a mechanism for joint working and improving wellbeing of their local population
- set strategic direction to improve health and wellbeing

4.2 The Health and Care Act 2022, which received Royal Assent in April 2022, looks to enable greater integration between partners across the health (which includes physical and mental health) and social care sector. The new architecture, introduced by the Health and Care Act 2022, and guidance on establishing place-based arrangements are based on the principle of subsidiarity. However, we expect all place-based arrangements to build on and work with existing forums such as HWBs as key existing place-based partnerships for driving integration.

4.3 The DHSC document therefore provides updated guidance on HWBs to align with the Health and Care Act 2022 and integration white paper, which we will engage further on before final publication. Key elements as around the role and purpose of HWBs, the ongoing importance of Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies, and the relationship between HWBs and ICBs/ICPs.

5. The role and purpose of HWBs

5.1 HWBs remain a committee of the local authority, and provide a forum where political, clinical, professional and community leaders from across the care and health system come together to improve the health and wellbeing of their local population, and look to reduce health inequalities. Along with other leaders at place, it will continue to lead action to improve people's lives at place level in many areas, and remain responsible for promoting greater integration and partnership between the NHS, public health and local government.

5.2 HWBs continue to be responsible for:

- assessing the health and wellbeing needs of the area and publishing a joint strategic needs assessment (JSNA)
- publishing a joint local health and wellbeing strategy (JLHWS) that:
    - sets out the priorities for improving the health and wellbeing of its local population, and how the assessed needs will be addressed – including addressing health inequalities
    - reflects the evidence of the JSNA

5.3 The Health and Care Act 2022 has not fundamentally changed the required members of a HWB. The core statutory membership of an HWB is unchanged, other than requiring a representative from ICBs, rather than clinical commissioning groups (CCGs).

5.4 Each HWB also has a separate statutory duty to develop a pharmaceutical needs assessment (PNA) for their area.

6. Joint strategic needs assessments (JSNAs) and joint local health and wellbeing strategies (JLHWSs)

6.1 The statutory guidance explaining the duties and powers in relation to JSNAs and JLHWSs is unchanged. JSNAs and JLHWSs are the vehicles for ensuring that the needs, and the local determinants of health of the local population are identified and agreed. The JSNA provides the evidence base for the health and wellbeing needs of the local population and should be kept up to date. The JLHWS sets out the agreed priorities and joint action for partners to address the health and wellbeing needs identified by the JSNA. Local authorities and ICBs must have regard to the relevant JSNAs and JLHWSs so far as it is relevant when exercising their functions.

6.2 NHS England must also – in exercising any functions in arranging for the provision of health services in relation to the area of a responsible local authority – have regard to the relevant JSNAs and JLHWSs.

7. The relationship between HWBs and ICBs: continuity and change

7.1 ICB and ICP leaders within local systems, informed by the people in their local communities, need to build on the work of HWBs. They should ensure that action at system-wide level adds value to the action at place level, so they are all aligned in understanding what is best for their population. In an effective health and care system, the ICP should build upon the existing work by HWBs and any other place-based partnership to integrate services.

7.2 Decisions should continue to be made as close as possible to local communities with decisions taken at a system level only where there is good reason to do so.

7.3 HWBs do not commission health services themselves, and do not have their own budget, but play an important role in informing the allocation of local resources. This includes responsibility for signing off the Better Care Fund plan for the local area and providing governance for the pooled fund that must be set up in every area.

7.4 Their role in joining up the health and care system, and driving integration will not be changed by the establishment of ICBs.

8. Proposed changes to previous arrangements

8.1 The draft guidance highlights the changes that apply in the new arrangements. Key issues of note are:

- HWBs will now receive a copy of an ICB joint capital resource plan outlining their planned capital resource use. It is intended that, in sharing these with HWBs, there will be opportunity to align local priorities, and provide consistency with strategic aims and plans.

- HWBs (and other place-based partnerships) will work with ICPs and ICBs to determine the integrated approach that will best deliver holistic and streamlined care and prevention activities, including action on wider determinants in their communities. ICPs will need to be aware of the work already being undertaken at place and build upon this. They should not seek to overrule or replace existing place-based plans.

- JSNAs will be used by ICPs to develop their integrated care strategy, identifying where the assessed needs within the JSNA can be met by local authorities, ICBs or NHS England in exercising their functions.

- The Health and Care Act 2022 requires an ICB and each responsible local authority whose area coincides with or falls wholly or partly within the board's area to establish a joint committee for the board's area (an ICP). The expectation is that all HWBs in an ICB area will be involved in the preparation of the integrated care strategy. ICPs will need to ensure that there are mechanisms within their system to ensure collective input to their strategic priorities. ICPs should use the insight and data held by HWBs around place in developing the integrated care strategy.

- HWBs will now be required to consider revising their JLHWS following the development of the integrated care strategy for their area. If having

considered the integrated care strategy, HWBs consider their existing JLHWS to be sufficient, there is no requirement to refresh.

- Every ICB that is within the HWB's area will be represented on the HWB. It is important that the previous local knowledge, strategies and relationships developed by HWBs and CCGs are built upon in the new system.

- Before the start of each financial year, an ICB and its partner NHS trusts and NHS foundation trusts must prepare a joint forward plan. ICBs must involve HWBs in this process.

- ICBs are required as part of their annual reports to review any steps they have taken to implement any JLHWS to which they are required to have regard. In preparing this review, the ICB must consult each relevant HWB.

9. Responses to engagement process

9.1 The document raised key questions:

- what examples can you provide of how HWBs are reacting to the introduction of ICBs or ICPs brought about by the Health and Care Act 2022?
- are there any issues you are encountering with the introduction of ICBs or ICPs that are affecting HWBs?
- are there new ways of working emerging that you would be happy to share as best practice?
- how are HWBs working to join up to ensure that they are part of discussions around implementation of the proposals in the integration white paper?
- we acknowledge the great work the LGA do in supporting HWBs and the resources they provide. In the final guidance we would like to provide examples in the form of diagrams and so on outlining the different structures and scenarios HWBs operate within, and would welcome examples or case studies
- does this guidance provide the information you need? Are there any gaps?

9.2 The Joint Chairs of the Board have responded as attached at Annex 1.

10. Amending the constitution for the Health and Wellbeing Board

10.1 At the June meeting, the HWB considered changes to the membership of the board and agreed that amendments should be made to reflect these. The revised constitution is attached as Annex 2. Following agreement by HWB,

this will be approved at the Governance, Audit and Standards Committee of the city council.

10.2 Further changes may be required when final HWB guidance is issued by DHSC on completion of the engagement exercise currently underway.

11. Reasons for recommendations

11.1 The current HWB constitution was agreed in 2019 and incorporated the functions of the Safer Portsmouth Partnership and the Children's Trust Board, with the expectation that an opportunity to review this way of working would be given after an interval.

11.2 The recommendations reflect feedback received, changes to the legislative framework for health and care, and invite further comment and discussion.

11.3 The recommendations also reflect the direction of travel for health and wellbeing boards in the light of the changed NHS context, and the possibility that future changes to the constitution of the board may be required to reflect these.

12. Integrated impact assessment

12.1 There is no change to policy or delivery recommended in the report. Detailed impact assessments will be undertaken on particular policies and initiatives as they emerge from the work of the Health and Wellbeing Board.

13. Legal implications

13.1 The basis and legality for the proposed amendments is set out in the body of the report. The appendix attached reflects the proposed changes to the Health and Wellbeing Constitution.

14. Director of Finance's comments

14.1 There are no direct financial implications arising from the recommendations contained within this report.

14.2 Future schemes and initiatives will require financial appraisal on case by case basis in order to support decision making. Before any schemes or initiatives will be able to proceed, specific funding sources would need to be identified and in place.

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Signed by: David Williams, Chief Executive, Portsmouth City Council

Appendices:

Appendix 1 - Joint Chairs' response to DHSC engagement
Appendix 2 - Revised HWB Constitution

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:

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Appendix 1 - response to DHSC engagement from the Joint Chairs of Portsmouth Health and Wellbeing Board

Thank you for giving us the opportunity to respond to questions as part of the engagement exercise on the role of Health and Wellbeing Boards in the new NHS architecture. As Joint Chairs of the Portsmouth Health and Wellbeing Board, these are our responses for your consideration.

Q1. What examples can you provide of how HWBs are reacting to the introduction of ICBs or ICPs brought about by the Health and Care Act 2022?

Q2. Are there any issues you are encountering with the introduction of ICBs or ICPs that are affecting HWBs?

It is sensible to take these questions together. The introduction of ICPs has created an understandable desire for needs assessments and strategies at ICS level. In some cases there is a risk that this either duplicates or competes with activity that has already been undertaken by Health and Wellbeing Boards through JSNAs and Joint Local Health and Wellbeing Strategies. It is helpful that this guidance makes clear that this is not the intention. However, the resource and capacity to use the place-based data held by the HWBs in the ICS area (e.g. the local Public Health Intelligence teams) is the same resource supporting each local HWB. In creating additional demand to aggregate or synthesise this data for use at ICS level, it reduces the capacity of place-based teams to support the work of their HWB.

It is also important that there is clarity about the purposes and functions of the respective groups and strategies. In Portsmouth, we had already begun to think about the core purpose of the HWB and how it adds greatest value to its wider system when developing the new JHWS, agreed earlier this year. This led us to position the strategy very clearly as a document focused on the fundamental determinants in our place, and at the role of all system partners in addressing these, with an expectation that the detail of health and care services and responses would be addressed in other documents, such as the integrated care strategy.

Q3. Are there new ways of working emerging that you would be happy to share as best practice?

The Public Health Intelligence teams for Hampshire and Isle of Wight, Portsmouth and Southampton have built on their close collaboration during the pandemic to support the ICS in developing its strategy in a joined-up way. This ensures that the ICS has the data it needs, with the local place-based intelligence built in, in a way that mitigates as far as possible the risk of competing demands on limited analytical

capacity. A rapid population health summary analysis was completed in just a few weeks for the ICS and shared with the individual HWBs or appropriate local groups.

Q4. How are HWBs working to join up to ensure that they are part of discussions around implementation of the proposals in the integration white paper?

In Portsmouth, we have strong relationships across the system and feel well linked into the wider bodies in the system to contribute to the implementation of proposals. We have a history of broad and deep integration between partners in the city and are excited about the opportunity that the integration white paper brings to progress this even further.

Q5. We acknowledge the great work the LGA do in supporting HWBs and the resources they provide. In the final guidance we would like to provide examples in the form of diagrams and so on outlining the different structures and scenarios HWBs operate within, and would welcome examples or case studies

We are very happy to provide material to support this process and have contributed already to LGA learning.

Q6. Does this guidance provide the information you need? Are there any gaps?

The guidance is very helpful in confirming the value that HWBs bring locally and the expectation of strong partnership with the ICB/ICP in the new architecture.

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Appendix 2 - 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, the criminal justice system 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, including a strategic assessment of crime and disorder in the local area as required by the Crime and Disorder Act 1998 (as amended) and a children's needs assessment.

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, strategic analysis of crime and disorder, children's needs assessment, Director of Public Health Annual Report as well as national policy developments and legislation.

c) prepare and publish a Pharmaceutical Needs Assessment for the city council, and assess pharmacy applications against this;

d) monitor and review the delivery of the JHWS and take action where evidence is indicating a failure to achieve agreed outcomes.

e) receive annual reports and regular updates from the Portsmouth Safeguarding Children Board and Safeguarding Adults Board; and to consult with safeguarding boards when considering how the welfare of children and vulnerable adults is to be safeguarded and protected.

f) encourage integrated working between health and social care and oversee, where appropriate, partnership arrangements under the NHS Act such as pooled budgets.

g) establish and maintain a relationship with the Police and Crime Commissioner to fulfil the mutual duty to co-operate and have regard to the priorities set out in their respective plans; and respond to requests to the Police and Crime Commissioner as set out in legislation.

h) undertake the governance role, as the community safety partnership, in relation to domestic homicide reviews.

i) 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.

j) 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 and the voluntary and community sector.

a) 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, care and wellbeing 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, shall comprise the following:

- Lead Member for Health and Social Care (Joint-Chair)
- Integrated Commissioning Board place-based Clinical Director (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)
- Health spokespersons from other political groups represented on the Council
- Integrated Commissioning Board Place Managing Director
- Two nominated representatives from the Portsmouth Education Partnership
- Portsmouth Police Commander
- Portsmouth Group Manager, Hampshire Fire and Rescue
- Community Rehabilitation Company
- National Probation Service
- Director of Public Health - PCC
- Director of Adults Services - PCC
- Director of Children's Services - PCC
- 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
- HIVE Portsmouth
- University of Portsmouth
- Office of Police and Crime Commissioner

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)
- Integrated Commissioning Board place-based Clinical Director (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)
- Integrated Commissioning Board Place Managing Director

*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"[1]. 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 Integrated Commissioning Board place-based Clinical Director 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 ICB. 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

[1] The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 No.218 regulation 6

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 ICB 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.

7.5 From time to time, the Board may establish sub-boards to deal with particular areas of business delegated to the Board, including in respect of the governance of domestic homicide reviews.

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.