

Agenda item:

**Title of meeting:** Governance and Audit and Standards Committee

Full Council

**Date of meeting:** Committee - 23<sup>rd</sup> November

Council - 6<sup>th</sup> December

**Subject:** Health and Wellbeing Board Constitution

**Report From:** Chief Executive

**Report by:** Kelly Nash, Corporate Performance Manager

**Wards affected:** All

**Key decision:** No

**Full Council decision:** Yes

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**1. Purpose of report**

- 1.1. To seek approval for proposed changes to the constitution for the Health and Wellbeing Board (HWB). The HWB have requested the changes to its constitution, for support by Governance, Audit and Standards Committee and approval by Full Council, to improve the effectiveness of the HWB as it fulfils its leadership role across the health and wellbeing system locally.

**2. Recommendations**

- 2.1. **Governance, Audit and Standards Committee is recommended to support the changes to the constitution for the Health and Wellbeing Board set out below, and recommend these changes to 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. The Portsmouth HWB brings 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 In 2019, a review of partnerships in the city concluded that there would be benefits for efficiency of working, and effectiveness of decision-making, if the current three cross-organisation partnerships that look at issues around health and wellbeing in the city (the HWB, the Safer Portsmouth Partnership and the Children's Trust Partnership) came together as one grouping with a single Terms of Reference and membership, under the auspices of the Health and Wellbeing Board as the statutory body. The HWB constitution was amended to reflect this.

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

4.1 Since 2019, there have been further changes that need to be reflected in the constitution of the HWB:

- The changes in the organisation of the NHS, including the abolition of clinical commissioning groups and the establishment of the Integrated Care Board (ICB) and Integrated Care Partnership (ICP)
- Closer working with the Police and Crime Commissioner
- The desire to work closely alongside the city safeguarding boards
- The need to reflect the importance of the University as a key partner
- The need to incorporate HIVE Portsmouth as a strategic partner representing the voluntary and community sector in the city.

4.2 In response to these issues, a revised membership has been agreed by the HWB and reflected in the revised constitution attached as Appendix 1, and all previous references to the clinical commissioning group have been amended to reflect the new integrated care system way of working.

4.3 It should also be noted that In July 2022, the Department for Health and Social Care (DHSC) issued draft guidance for engagement on health and wellbeing 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).

4.4 The draft guidance document recognises that HWBs 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 ICBs and integrated care partnerships ICPs.

4.5 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

4.6 DHSC will be updating the guidance on the HWBs general duties and powers following engagement with key stakeholders which took place over the Summer. It is not anticipated that this will lead to significant changes in the working of HWBs, but it may be that further adjustments of the constitution are required when the guidance is updated to take account of any new or revised requirements. A further report will come forward to GAS if this is required.

## **5. Reasons for recommendations**

5.1 The committee 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 and in relation to the requirements of the Crime and Disorder Act 1998.

5.2 The recommendations have been agreed in principle by the HWB in September 2022.

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

6.1 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.

## **7 Legal implications**

7.1 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.

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

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

8.2 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

**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 1 - 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 Integrated Care Board (ICB), 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) Ensure that local area responsibilities under the serious violence duty are fulfilled
  - i) undertake the governance role, as the community safety partnership, in relation to domestic homicide reviews.
  - j) 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.
  - k) 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.

- l) 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 ICB, 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
- Portsmouth Safeguarding Adults Board
- Portsmouth Safeguarding Children's Board.

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"<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 Integrated Commissioning Board place-based Clinical Director as joint chairs of the HWB, with the chair 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**

- 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,

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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

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.