



London Borough of Hammersmith & Fulham

COUNCIL

29 MAY 2013

ESTABLISHMENT OF A HEALTH AND WELLBEING BOARD: GOVERNANCE ARRANGEMENTS

Report of the Leader of the Council – Councillor Nicholas Botterill

Open Report

Classification - For Decision

Key Decision: No

Wards Affected: All

Accountable Executive Director: Jane West, Executive Director of Finance and Corporate Governance

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1. EXECUTIVE SUMMARY

1.1 This report sets out the background to the establishment of a statutory Health and Wellbeing Board for the London Borough of Hammersmith & Fulham and recommends the terms of reference, membership and other governance arrangements that will apply.

2. RECOMMENDATIONS

2.1 The Council is recommended to:

- (i) Establish a Health and Wellbeing Board for the London Borough of Hammersmith & Fulham and agree the proposed membership on the basis set out in the report;
- (ii) Appoint Councillor Marcus Ginn, Cabinet Member for Community Care, as the Chairman of the Health and Wellbeing Board; and
- (iii) Consult the Health and Wellbeing Board on the proposal to make a direction on the entitlement of the Council's non-Councillor representatives to vote as set out in paragraph 4.4 of the report.

3. REASONS FOR DECISION

3.1 The Health and Social Care Act 2012 requires that every upper-tier local authority (or London Borough) establish a Health and Wellbeing Board (HWB). The Act establishes and treats HWBs as though they are committees appointed by the Council in accordance with s102 of the Local Government Act 1972¹.

4. INTRODUCTION AND BACKGROUND

Background

4.1 The NHS White Paper *'Equity and Excellence; Liberating the NHS'* was published in July 2010. This document and the accompanying consultation paper *'Local Democratic Legitimacy in Health'* outlined significant changes to local health and wellbeing governance structures, including the creation of local statutory health and wellbeing boards.

4.2 The Health and Social Care Act 2012 requires that every upper-tier local authority (or London Borough) establish a Health and Wellbeing Board (HWB). The Act establishes and treats HWBs as though they are committees appointed by the Council in accordance with s102 of the Local Government Act 1972. However, whilst councils have a clear leadership role, the Government's intention is that Boards should not be council 'owned' committees but rather, as HWBs involve an interplay of powers and responsibilities, as forums for shared leadership across the health, care and wellbeing sectors. Although HWBs are established as Council committees the statutory powers exercised by them are executive functions.

Key Issues Arising from the Legislation

4.3 It has always been the explicit policy intention that HWBs will, as a forum for collaborative local leadership, be very different to a normal local authority committee appointed under S.102. The Act therefore enables regulations to be made to provide that any enactment relating to a committee appointed under S.102 of the 1972 Act does not apply in relation to an HWB or applies in relation to it with such modifications as may be prescribed in the regulations.

4.4 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 make the following key changes to the normal requirements regulating the operation of Council committees which will apply to the HWB:

- The disapplication of S.13 of the Local Government and Housing 1989 Act, to provide that non-Councillor members of the HWB **can** vote alongside the Councillors on the Board unless the Council, having consulted the Board, directs otherwise. It is proposed that the Council considers making a direction that the

¹ Although HWBs will be set up as committees of local authorities, the Health and Social Care Act 2012 has a clause that enables the disapplication of legislation that relates to those committees - such as legislation covering the voting processes and terms of reference of membership, among other issues. This recognises that HWBs are unusual in comparison to normal s102 committees in having officers, clinical commissioning groups, PCTs and local Healthwatch representatives sitting on them.

members of the Board who are entitled to vote alongside the Councillors are the representative of Local Healthwatch and one of the CCG representatives but not the Council officers on the Board.

- The disapplication of S.15 to S.17 of, and Schedule 1 to, the 1989 Act which impose political balance requirements on relevant local authorities and committees in relation to allocation of seats on committees and sub-committees. The disapplication of these provisions accords with the Board being a strategic body across organisations in the public health sector and the emphasis should be on the organisations represented rather than reflecting the political balance of the Council. Members of the minority parties will be invited to stakeholder meetings and are also represented on the Health Scrutiny Committee.

Purpose

- 4.5 The purpose of the HWB is to improve the health and wellbeing of residents by promoting integration and partnership working between H&F Clinical Commissioning Group (CCG), London Borough of Hammersmith & Fulham, Local Healthwatch and the NHS Commissioning Board.
- 4.6 The HWB will exercise three main functions;
- (i) To assess the needs of the local population and lead the statutory joint strategic needs assessment.
 - (ii) To promote integration and partnership across areas, including through promoting joined up commissioning plans across the NHS, social care and public health.
 - (iii) To support joined commissioning and pooled budget arrangements where appropriate.

5. PROPOSAL AND ISSUES

Terms of Reference

- 5.1 In accordance with the statutory duties and powers given to the HWB by the Health and Social Care Act 2012 it is proposed that the terms of reference of the Board are as follows:
- (i) To provide organisational leadership by agreeing the vision and strategic priorities for health and wellbeing in Hammersmith & Fulham, as part of the Joint Health & Wellbeing Strategy.
 - (ii) To ensure commissioning decisions are based on clear evidence for improving outcomes and integrating services.
 - (iii) To drive the development and implementation of the Joint Health & Wellbeing Strategy (JHWS) and take joint action to facilitate progress.

- (iv) To oversee the development and use of the Joint Strategic Needs Assessment (JSNA) by the Council and H&F CCG.
- (v) To oversee the development and maintenance of the Pharmaceutical Needs Assessment (PNA).
- (vi) To ensure effective public and patient engagement and involvement in the development and provision of health and wellbeing services.
- (vii) Wherever possible, to promote the effective integration of health and social care services across the three boroughs of Hammersmith & Fulham, Kensington & Chelsea and Westminster.

Membership

5.2 The core membership of the HWB, which is set out below, is compliant with the Health & Social Care Act, 2012:

- Cabinet Member for Community Care
- Chair of H&F CCG
- Cabinet Member for Children’s Services
- Tri-borough Executive Director of Adult Social Care
- Tri-borough Executive Director of Children’s Services
- Director of Public Health
- A Local Healthwatch representative

5.3 The HWB also has the power to appoint additional persons to the Board.

5.4 Each nominating body will be asked to nominate a primary representative and a deputy, both of whom will be permanent appointments and will be expected to understand the business of the Board and the deputy would have the authority to make decisions in the event that the Board member is unable to attend a meeting.

5.5 The legislation requires that the councillor members of the Board are nominated by the Leader.

Table:

Nominating organisation	Nominee position	Reason for proposal	Nominated deputy
London Borough of Hammersmith & Fulham	Cabinet Member for Community Care Councillor Marcus Ginn	Councillor nomination from the Leader as per Health and Social Care Act 2012	Councillor Georgie Cooney
London Borough of Hammersmith & Fulham	Cabinet Member for Children’s Services Councillor Helen Binmore	Councillor nomination from the Leader as per HSCA 2012	

London Borough of Hammersmith & Fulham	Tri-borough Executive Director for Adult Social Care	Statutory member as per HSCA 2012.	H&F Borough Director
London Borough of Hammersmith & Fulham	Tri-borough Executive Director for Children's Services	Statutory member as per HSCA 2012.	Tri-borough Director for Commissioning (Children's Services)
London Borough of Hammersmith & Fulham	Tri-borough Director of Public Health	Statutory member as per HSCA 2012.	Deputy Director of Public Health
Healthwatch	To be confirmed	Statutory member as per HSCA 2012.	To be confirmed
Hammersmith & Fulham Clinical Commissioning Group	Chair	Statutory member as per HSCA 2012.	Deputy Chair

- 5.6 The Chairman shall be appointed by Full Council.
- 5.7 Members shall elect a Vice-chairman from among the Board's membership.
- 5.8 The Act provides that the NHS Commissioning Board must appoint a representative for the purpose of participating in the preparations of JSNAs and the development of JHWSs, and to join the HWB when it is considering a matter relating to the exercise, or proposed exercise, of the NHS Commissioning Board's commissioning functions in relation to the area and it is requested to do so by the HWB.
- 5.9 The HWB will meet five times during the municipal year. During 2013/2014, the HWB will meet on:
- 17 June 2013
9 September 2013
4 November 2013
13 January 2014
24 March 2014
- 5.10 The Board's meetings will be subject to the normal access to information rules and therefore, unless exemptions apply which allow for business to be conducted in private, will be held in public.

Other Governance Issues

Quorum

- 5.11 It is proposed that the quorum for meetings will be three voting members.

Decision-making: consensus and voting

- 5.12 The Board will seek to work by consensus. Nevertheless, on occasions there may be differences between partner organisations represented on the Board. It is envisaged that where possible these will be discussed and resolved in advance of the meeting. Any unresolved difference will, where possible, be noted in the HWB report in question. Furthermore if, at the meeting when the matter has to be determined, consensus cannot be reached, the decision will be made by a vote (in accordance with the provisions in the Council's standing orders).
- 5.13 Unless the Council directs otherwise following consultation with the Board, officer and non-councillor members of the Board will also be entitled to vote.

Interests

- 5.14 Members must declare any conflicts of interest at appropriate times. Non-councillor members of the HWB will be subject to the Council's Code of Conduct and the requirements to register and declare disclosable pecuniary interests.

Developing understanding and embedding best practice

- 5.15 The Board will endeavour to learn and understand the business of other Board members' organisations and build in opportunities to establish roving meetings and site visits where appropriate.
- 5.16 The Board will ensure all local, regional and national best practices is taken into consideration when developing plans and services for the borough.

Communication

- 5.17 The Board will endeavour to communicate the aims and business of the Board to all stakeholders, communities and populations, and establish robust two way communication channels for all.

Review

- 5.18 A review of membership and terms of reference will take place following the set up of the Board, then annually.

Accountability

- 5.19 Accountability of HWB Members will depend on their relevant parent organisation:
- Accountability of the Council will come through Scrutiny Committees, Local HealthWatch and the democratic process.
 - Accountability of the CCGs will come through assessment by the NHSCB, lay people on the CCG Board, and the duties to involve, consult and publish an annual report.
 - Accountability of HealthWatch will be to the Council, and to the local community.

Relationships and Interdependencies

- 5.20 There are a number of key relationships the Board will need to develop, foster and understand. Locally, the Board will develop effective mechanisms to link to the Scrutiny Committees, the Pharmaceutical Needs Assessment (PNA) Working Group and any JSNA Working Groups, tri borough HWBs, the Commissioning Support Unit (CSU), other local statutory groups, the Voluntary and Community sector and the community itself.
- 5.21 Regionally and nationally key relationships will be fostered with NHSCB, Public Health England (PHE), and an understanding developed of the business of the Care Quality Commission (CQC), Monitor, Healthwatch England, and others.
- 5.22 An understanding of where business is done, and what statutory boards and other decision making bodies exist across the borough, will allow the HWB to function more efficiently and effectively.
- 5.23 Regionally and nationally key relationships will be fostered with NHSCB, Public Health England, and an understanding developed of the business of the Care Quality Commission, Monitor, Healthwatch England and others.

6. EQUALITY IMPLICATIONS

- 6.1. Not Applicable.

7. LEGAL IMPLICATIONS

- 7.1. The legal implications for this report are contained in the body of the report.

Implications verified by: LeVerne Parker, Chief Solicitor, 020 7361 2180.

8. FINANCIAL AND RESOURCES IMPLICATIONS

- 8.1. There are no financial implication arising.

9. RISK MANAGEMENT

- 9.1. Not applicable.

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		