Leeds Health & Wellbeing Board

Report author: Peter Roderick
Tel: 01132474306

Report of: **Chief Officer Health Partnerships**

Report to: **Leeds Health and Wellbeing Board**

Date: **20 November 2013**

Subject: **Due regard to the Joint Health and Wellbeing Strategy**

Are there implications for equality and diversity and cohesion and integration?	☒ Yes	☐ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

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Summary of main issues

- Leeds has a strong track record in developing shared priorities through the Joint Health and Wellbeing Strategy. The draft Strategy was used by the CCGs to shape strategic plans during their authorisation processes, and a report was received by the Shadow Health and Wellbeing Board which demonstrated existing alignment in strategic plans across the city.

- The Health and Social Care Act 2012 introduced a statutory duty for Health and Wellbeing Boards to develop Joint Health and Wellbeing Strategies for their local areas, placed a duty on each statutory organisation represented at the Board to take 'regard' to the Strategy in exercising their functions, and gave the Board itself the duty to assess the extent to which this was the case.

- This paper outlines the proposed process for the Board to assess if this duty is being carried out by each of the named organisations in statute: the Local Authority, the relevant Clinical Commissioning Groups, and NHS England. Since there is no statutory guidance to advise Health and Wellbeing Boards on how to assess due 'regard' to the Strategy, this paper recommends a simple and light-touch approach proposed by senior officers from the relevant organisations to add value to strategic and commissioning alignment whilst avoiding the duplication of other assurance, performance and delivery management work currently being undertaken.

Recommendations

The Health and Wellbeing Board is asked to:

- Note and approve the process by which the Health and Wellbeing Board will carry out this duty to asses due 'regard' for the Joint Health and Wellbeing Strategy.

1 Purpose of this report

1.1 To discuss how the Health and Wellbeing Board might carry out its duty to assess strategic/commissioning alignment and shared due regard for the strategy.

2 Background information

2.2 Leeds City Council, the three Leeds Clinical Commissioning Groups, and the NHS England Local Area Team have a statutory duty to take due regard of the Health & Wellbeing Board's Joint Health & Wellbeing Strategy. The Health and Social Care Act 2012 amended the Public Involvement in Health Act 2007 to include the following provision at section 193:

> **116B Duty to have regard to assessment and strategies**
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> (1) A responsible local authority and each of its partner clinical commissioning groups must, in exercising any functions, have regard to—
>
> (a) any assessment of relevant needs prepared by the responsible local authority and each of its partner clinical commissioning groups under section 116 which is relevant to the exercise of the functions, and
>
> (b) any joint health and wellbeing strategy prepared by them under section 116A which is so relevant.
>
> (2) The National Health Service Commissioning Board must, 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—
>
> (a) any assessment of relevant needs prepared by the responsible local authority and each of its partner clinical commissioning groups under section 116 which is relevant to the exercise of the functions, and
>
> (b) any joint health and wellbeing strategy prepared by them under section 116A which is so relevant.

2.3 Additionally, there are several related duties in the Health & Wellbeing Board's Terms of Reference:

- to provide an opinion to the authority on whether the authority is discharging its duty to have regard to the JSNA, and the JHWS, in the exercise of its functions;
- to review the extent to which each CCG has contributed to the delivery of the JHWS
- to provide an opinion to CCGs on whether their draft commissioning plan takes proper account of the JHWS;
- to provide an opinion to NHS England on whether a commissioning plan published by a CCG takes proper account of the JHWS.

2.4 Though a statutory duty, the work outlined above will be of mutual benefit to the partnership by contributing to the achievement of the strategic outcomes, improving strategic and operational alignment, and aiding work in ensuring the best use of the 'Leeds £'.

3 Main issues

3.1 A number of questions/issues are immediately apparent when determining the most effective process to asses due 'regard' across the system:

Plans vs. activity: To what extent should this duty focus on the plans of partners (commissioning plans, organisational strategies), or the activities carried out following the setting of strategic direction?

Level of depth: It is not clear how 'deep' an exercise the Government intended this process to be, whether requiring simply 'plan on a page alignment', or a more in-depth look at whole strategies. As yet no statutory guidance has been released. Anecdotal evidence from regional and national partners suggests that little work has been progressed in other local authority/CCG areas against which a Leeds approach can be benchmarked.

Timescales: Organisations work to differing commissioning cycles. The three CCGs are currently working to a planning cycle of 2-year operational and 5-year strategic plans, as part of the Call to Action. The Local Authority sets a yearly budget with a variety of commissioning cycles and contracts of varying lengths. NHS England has its own set of planning cycles relating to the NHS mandate, direct commissioning plans, and its part of the Call to Action. With the Joint Planning Letter issues to Trusts, CCGs and LAs very recently, and the full planning framework to follow in December, some of these timescales are still unclear.

Geography: In the case of NHS England (West Yorkshire), their commissioning of primary care services happen on a West Yorkshire footprint, and a number of other direct commissioning activity happens at a wider regional level, with area teams in the North of England taking responsibility for components of the system.

However there are clear and large implications for Leeds as a base out of which a large number of secondary and primary care services are commissioned.

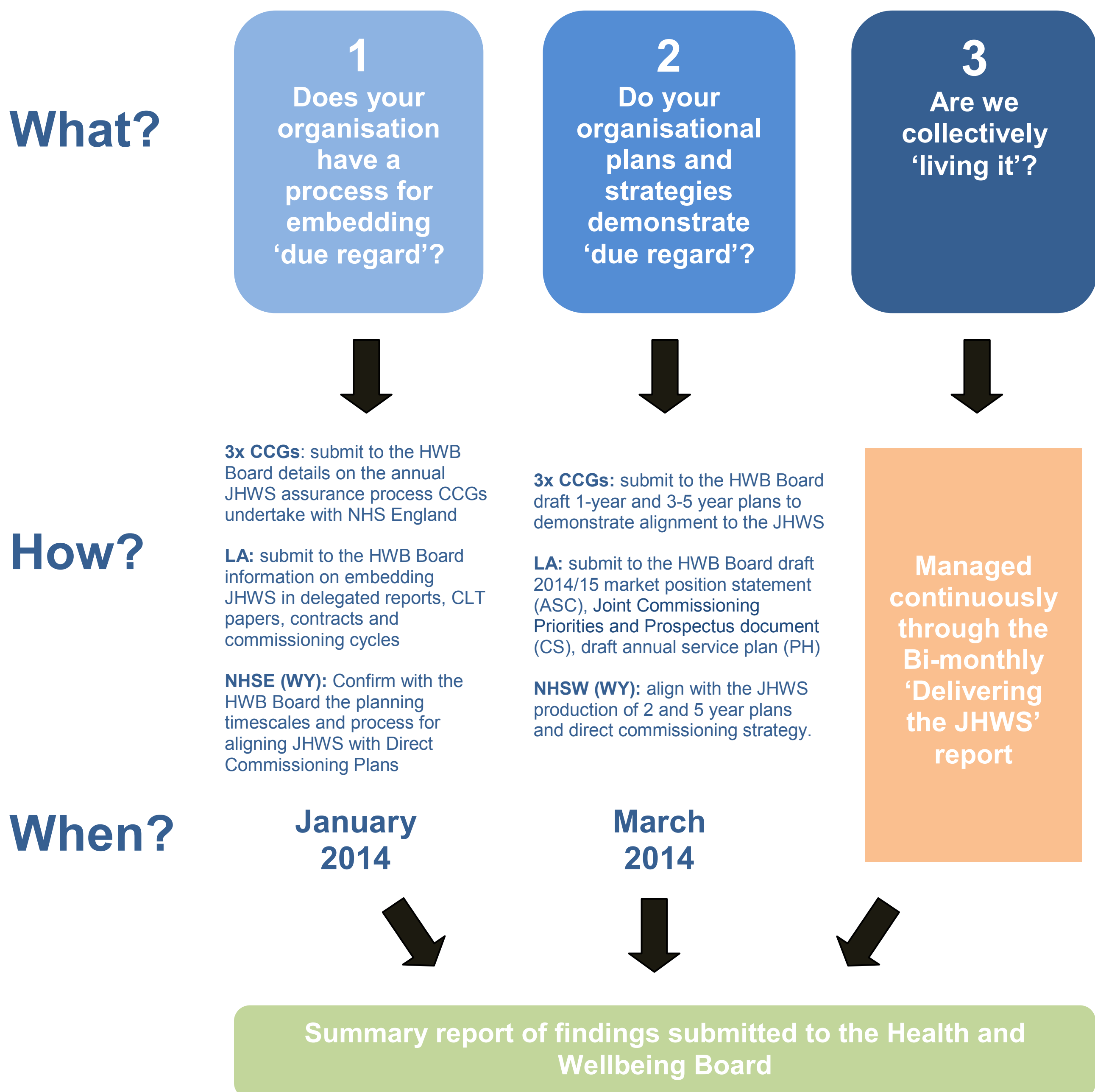
Existing work: There is already a large degree of assurance work ongoing against the Strategy. This includes (but is not limited to):

- Annual assurance from CCGs to NHS England
- Performance and delivery management of the Strategy (bi-monthly)
- Core business planning within Public Health
- Children's Trust annual reports and commissioning decisions
- Adult social care contracts which use the JSNA and JHWS as evidence-base

3.2 Due to the complexity of some of these issues, the Integrated Commissioning Executive received an outline paper on the 10th of September to discuss the most appropriate way of tackling them. It was agreed that a workshop with representatives from the relevant organisations should be held, at which a number of initial options should be discussed, including:

- running an OBA-style workshop
- developing a self-assessment toolkit/audit
- conducting a desk-top exercise using submissions from partners
- requiring three separate internally-produced reports from each organisation.

3.3 This workshop took place on the 21st of October, with representatives invited from the three CCGs, NHS England (West Yorkshire), Public Health, Children's Services, Adult Social Care, and Healthwatch. Attendees It was decided that a desk-top exercise using submissions from partners was the most suitable approach, and the process below was developed around three key questions:



3.4 This process draws a number of ongoing pieces of work together, and will enable the Health and Wellbeing Board to receive a rounded picture of how organisations are demonstrating their due regard to the JHWS. It is anticipated that the final report for will be brought forward at the first meeting of the 2014/15 Board year.

3.5 The timetable for this work would be the following

September 2013	Initial report to ICE outlining options
October 2013	Workshop held with statutory partners
November 2013	Board approve/amend process
January 2014	Initial set of information supplied to the Health and Wellbeing Board (through the Health and Wellbeing Team)

March 2013	Details from draft plans/strategies supplied to the Health and Wellbeing Board (through the Health and Wellbeing Team)

4 Health and Wellbeing Board Governance

4.1 Consultation and Engagement

4.1.1 Due to the nature of this report in defining and agreeing a set of intra-partner processes related to statutory duties set out in the Health and Social Care Act 2012, engagement has been with the statutory partners at this stage. However the third sector is a crucial partner in delivering the Strategy, and the final report will be produced in conjunction with all members of the Board.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no specific Equality and Diversity / Cohesion and Integration implications arising as a direct result of this report.

4.3 Resources and value for money

4.3.1 There are no direct implications on resources and value for money arising from this report. However, the alignment of commissioning decisions and strategies has the potential to improve the use of the 'Leeds £'.

4.4 Legal Implications, Access to Information and Call In

4.4.1 A legal view has been sought on the precise wording and stipulations within the Health and Social Care Act 2012 regarding the legal duty on the Council, CCGs and NHS England.

4.5 Risk Management

4.5.1 The clinical commissioning groups, NHS England and the Local Authority have a statutory duty to demonstrate due regard with the JHWS. Failure to do so could result in:

- Public and political challenge
- Adversely affected reputation
- Missing the opportunity to take advantage of strategic citywide alignment leading to potential negative outcomes for people and finances

5 Conclusions

5.1 The Local Authority, CCGs and NHS England all have a duty to demonstrate due regard with the JHWS in their commissioning/service plans 14/15, as stipulated by the Health and Social Care Act 2012. In agreeing to adopt the processes outlined

in this report, or in amending the proposals, the Board can be assured that the mechanisms are in place to ensure compliance with the Act.

5.2 The specific process highlighted in section 3.3 will require each relevant organisation to provide narrative and information on their process for embedding ‘due regard’ (by January 2014) and how their organisational plans and strategies demonstrate ‘due regard’ (by March 2014). The bi-monthly ‘delivering the JHWS’ report will then allow the board to assess the effectiveness of this on outcomes across the health and wellbeing system (‘are we living it?’).

6 Recommendations

6.1 The Health and Wellbeing Board is asked to:

- Note and approve the process by which due ‘regard’ for the Joint Health and Wellbeing Strategy will be assessed.