

Leeds Health & Wellbeing Board

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Report of City Solicitor

Report to Health and Wellbeing Board

Date: 22 May 2013

Subject: Governance arrangements

Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report outlines the governance arrangements for the Health and Wellbeing Board which were approved by full Council at the annual meeting on 20 May 2013.
2. At that meeting Full Council resolved to consult with the Health and Wellbeing Board before making a direction about voting arrangements. The terms of the proposed direction are set out in paragraph 3 of this report.

Recommendations

3. The Health and Wellbeing Board is asked to:
 - Note the governance arrangements approved by full Council for the Health and Wellbeing Board, outlined in paragraph 3 of this report; and
 - Consider the proposed voting direction, set out in paragraph 3 of this report.

1 Purpose of this report

- 1.1 This report presents the governance arrangements approved by full Council for the Health and Wellbeing Board for the municipal year 2013-14.
- 1.2 The report also asks the Health and Wellbeing Board to respond to consultation by full Council about a proposed direction in relation to voting arrangements.

2 Background information

- 2.1 The Health and Social Care Act 2012 requires Leeds City Council to establish a Health and Wellbeing Board as a **committee** of full Council. The Act sets out the functions to be discharged by the Board and a minimum statutory membership, (to include representatives nominated by the Council Leader, appointed by each clinical commissioning group (CCG) and the Local Healthwatch organisation, and the three statutory directors of Adult Social Services, Children's Services and Public Health).
- 2.2 In relation to **voting arrangements**, regulations provide for all members on the Board (including Council officers) to be voting members, unless the authority has directed otherwise. Before making such a direction, the authority must consult with the Board. Any voting co-optees (including officers), will need to comply with the authority's Code of Conduct.
- 2.3 At its annual meeting on 20 May, full Council approved governance arrangements for the Health and Wellbeing Board, made appointments to the Board, and noted the appointments made by the CCGs and Healthwatch Leeds to the Board.

3 Main issues

- 3.1 The **terms of reference for the Health and Wellbeing Board** were approved, as set out in appendix 1 to this report. These closely reflect the statutory functions of the Board. No additional functions have to date been referred to the Board by the authority, under function 9 of the terms of reference.
- 3.2 Full Council also approved amendments to the **terms of reference** of the Council's **Area Committees** to allow those committees to advise or make representations to the Health and Wellbeing Board, and to consider any proposals referred to them by the Health and Wellbeing Board.
- 3.3 In relation to **membership**, in addition to the statutory membership, full Council appointed a representative of the third sector, and a representative of NHS (England). The Health and Wellbeing Board may itself appoint additional members to the Board, as it thinks appropriate – see further the following item on this agenda.
- 3.4 Full Council resolved that the **quorum** for the Health and Wellbeing Board should be 4, to include one councillor and a CCG representative.

- 3.5 Full Council also approved **substitute arrangements** for councillors who are members of the Board, via nomination from the relevant group whip. Substitute arrangements for other members are to be reviewed once the Board has considered whether to appoint any further members – see further the following item on this agenda.
- 3.6 In relation to **scrutiny**, the Council’s Scrutiny Board (Health and Wellbeing and Adult Social Care) has general review functions in relation to functions discharged by the Health and Wellbeing Board.
- 3.7 By law, decisions taken by the Health and Wellbeing Board under its core statutory functions **cannot** be subject to **call-in** (a procedure under which key decisions made by the executive cannot be implemented until they have been reviewed by a Scrutiny Board). Key decisions by the Health and Wellbeing Board under functions delegated to it by the Leader would however be subject to the usual provisions about executive decisions, including the call-in process. However, as stated above, the Board has not to date been delegated any such functions.
- 3.8 In relation to **voting arrangements**, the Council resolved to consult with the Health and Wellbeing Board about the following direction:
- “The council directs that all members of the Health and Wellbeing Board shall be non-voting except for:
- all councillors appointed to the Board by full Council;
 - the representative directly appointed by each CCG;
 - the representative directly appointed by Healthwatch Leeds; and
 - the third sector representative.
- Any substitute member appointed under the Council Procedure Rules who is attending a meeting in place of one of the above members, may also vote at that meeting.”
- 3.9 This arrangement provides for a parity of votes between the Council and its partners, to reflect the nature of the Health and Wellbeing Board as a partnership. The Chair will have a casting vote in the event of an equality of votes.
- 3.10 The direction itself may be reviewed or amended at any time. Identifying non-voting members in this way (that is, by exception) secures the parity of voting arrangements, whatever additional appointments may be made by the Board.

4 Health and Wellbeing Board Governance

4.1 Consultation and Engagement

- 4.1.1 Consultation with a number of citywide strategic partnership groups (the Integrated Commissioning Executive, the Leeds Health and Social Care Transformation Programme Board and the shadow Health and Wellbeing Board)

was carried out before full Council considered the governance arrangements for the Board.

- 4.1.2 The Council is required by law to consult with the Health and Wellbeing Board before making any direction about voting rights.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 As a local authority committee, the Health and Wellbeing Board will have to meet public sector equality duties.

4.3 Resources and value for money

- 4.3.1 There are no specific resource implications arising from this report.

4.4 Legal Implications, Access to Information and Call In

- 4.4.1 This report is not open to call-in. No information in this report has been classified as exempt.

4.5 Risk Management

- 4.5.1 There are no risk management implications to this report.

5 Conclusions

- 5.1 Overarching governance arrangements have now been approved for the Health and Wellbeing Board. However, it remains for voting arrangements to be confirmed by way of the direction, and for the Board to consider the appointment of any additional appropriate members (see next item).

6 Recommendations

- 6.1 The Health and Wellbeing Board is asked to:

- Note the governance arrangements approved by full Council for the Health and Wellbeing Board, outlined in paragraph 3 of this report; and
- Consider the proposed voting direction, set out in paragraph 3 of this report.

Terms of reference

Leeds Health and Wellbeing Board

The Leeds Health and Wellbeing Board is authorised to carry out the following functions¹:

1. to encourage integrated working² in relation to arrangements for providing health, health-related or social care services;
2. to prepare and publish a joint strategic needs assessment (JSNA)³;
3. to prepare and publish a joint health and wellbeing strategy (JHWS)⁴;
4. 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 functions⁵;
5. to review the extent to which each Clinical Commissioning Group (CCG) has contributed to the delivery of the JHWS⁶;
6. to provide an opinion to each CCG on whether their draft commissioning plan takes proper account of the JHWS⁷;
7. to provide an opinion to NHS England on whether a commissioning plan published by a CCG takes proper account of the JHWS⁸;
8. to prepare a local pharmaceutical needs assessment⁹; and
9. to exercise any other functions of the authority which are referred to the Board by the authority¹⁰.

¹ "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include doing anything which is calculated to facilitate or is conducive or incidental to the discharge of any of these functions.

² In accordance with Section 195 Health and Social Care Act 2012. This includes encouraging arrangements under Section 75 National Health Service Act 2006 (the NHSA 2006).

³ Section 116 Local Government and Public Involvement in Health Act 2007 (the LGPIHA 2007)

⁴ Under Section 116A LGPIHA 2007

⁵ Under Section 116B LGPIHA 2007

⁶ Under Section 14Z15(3) and Section 14Z16 NHSA 2006

⁷ Section 14Z13(5) NHSA 2006

⁸ Section 14Z14 NHSA 2006

⁹ Section 128A NHSA 2006

¹⁰ The Leader may delegate executive functions to the Board at any time during the year, in accordance with the Executive and Decision Making Procedure Rules.