

<b>Committee(s):</b>	<b>Date(s):</b>
Shadow Health & Wellbeing Board Policy & Resources Committee Port Health & Environmental Health Court of Common Council	7 November 2012 8 November 2012 13 November 2012 6 December 2012
<b>Subject:</b> Health & Wellbeing Board - Governance Arrangements	<b>Public</b>
<b>Report of:</b> Town Clerk	<b>For Decision</b>

### Summary

The Health and Social Care Act 2012 ("The HSCA 2012") will introduce significant changes to the delivery of health services in England, in a move which the Government hopes will improve the 'democratic accountability' of the NHS.

With the abolition of Primary Care Trusts (PCTs), local authorities are taking on new responsibilities in respect of public health. One of the key aspects of the reforms is the establishment of 'Health & Wellbeing Boards' (H&WB), to provide collective leadership to improve health and wellbeing for each local authority area. The City will need to have its own H&WB set up by April 2013.

This report informs Members of the proposed steps to meet that requirement and seeks endorsement of key considerations around that process.

### **Recommendations**

That:-

- a) the steps to be taken to set up a Health & Wellbeing Board in the form of a standalone Committee of the Common Council, including the timetable for consultation outlined in paragraph 23, be noted;
- b) the following be considered and endorsed:-
  - i. Terms of Reference of the H&WB (paragraph 11)
  - ii. the Membership of the H&WB as at April 2013 (Appendix 2)
  - iii. the convention that the Chairman of the H&WB should be a Member of the CoCo, to ensure a suitable representation at the Court of Common Council.

## Main Report

### Background

1. The Health and Social Care Act 2012 ("The HSCA 2012") received Royal Assent on 27 March 2012. The Act sets out the ambition for the NHS to become 'democratically accountable' through changes in the way health services are commissioned and delivered.

2. One of the key aspects of the reform is that local authorities in England will take over the responsibility for health improvement of local populations. Primary care - that is, the responsibility for treating illness – will remain with the NHS. The new duties which local authorities are taking on include the appointment of a Director of Public Health, the commissioning of a Local Healthwatch group (currently known as LINK) and the set up of a Health & Wellbeing Board (H&WB) to provide collective leadership to improve health and wellbeing for the local area.
3. With the abolition of Primary Care Trusts (PCTs), it will fall on H&WBs to provide a means of integrating all aspects of public health.

### **Current Position**

4. A Shadow Health & Wellbeing Board for the City of London started work in earnest in April 2012 in response to the Government's expectation that local authorities should be prepared ahead of the implementation of the reforms. At the last meeting on 5 September 2012, the Board considered a report on the next steps to set up a H&WB and gave endorsement to the proposals contained in this report and which are now before Members for consideration. This report was also considered by the Community & Children Services Committee on 12 October 2012 and its comments have been incorporated in the report.

### **Meeting the legal requirement**

5. In accordance with s.194 of the HSCA 2012, every local authority has a duty to establish a H&WB. This requirement applies to the City of London, in its local authority capacity. .
6. The overarching aims of H&WBs are (s.195):-
  - a. to provide collective leadership to encourage integrated working between NHS commissioners, public health and social care services for the advancement of local health and wellbeing.
  - b. to provide advice assistance and support to encourage partnership arrangements. eg budget pooling arrangements
  - c. to encourage providers of "health related services" eg. Housing to work closely with the Board, Social Care Services and Health Service Commissioners

In particular, Health and Wellbeing Boards will have two key responsibilities (s.192-193):-

- a. To undertake the Joint Strategic Needs Assessment (JSNA)
- b. To develop a joint Health and Wellbeing Strategy

### **Positioning within the City Corporation – A 'standalone Committee'.**

7. The requirement of s.194(11) of the Health and Social Care Act 2012 is that the Health and Wellbeing Board must be "*a committee of the local authority*

*which established it and, for the purposes of any enactment, is to be treated as if it were a committee appointed by that authority under section 102 of the Local Government Act 1972".* The Comptroller & City Solicitor has advised that to comply with the statutory provision the Health and Wellbeing Board must become a committee in its own right rather than a sub-committee, or its work being absorbed by another existing committee.

8. As with other Committees, the H&WB would need to be formally appointed by the Court of Common Council. For the H&WB to be represented at CoCo, either the Chairman or the Deputy Chairman would need to be a CoCo Member. Most local authorities so far have established that the H&WB Chair should be the Leader (e.g. Hounslow) or a Cabinet Member (e.g. Leicestershire). Voting would also need to be extended to other non-CoCo, external members.
9. Careful consideration will need to be given to how the developing role of the H&WB might impinge on the work of other City Corporation committees, particularly the Community & Children's Services and Port Health & Environment Services committees. H&WBs will share many operational similarities with partnership bodies (like Local Strategic Partnerships – LSP – or Community Safety Partnerships - CSP) in that its decisions affect not just the local authority but a variety of agencies and partners.
10. The Local Government Association (LGA) has published guidance in respect of setting up H&WBs (document entitled "New Partnerships, New Opportunities"). In this document, the LGA acknowledges that "H&WBs are throwing up a number of constitutional issues" and that, once in operation, difficulties may arise in relation to voting and more generally the application of local authority standing orders. Should issues arise, s.194(2) of the HSCA 2012 allows the Secretary of State to create regulations enabling the H&WB to have different governance processes. The regulations have yet to be produced. The LGA advises that, at present, "these [constitutional] issues are far from centre-stage for local areas [... which are instead] focusing on establishing relationships, developing shared priorities and getting down to business with an emphasis on short-term wins". It recommends H&WBs to consider legal and constitutional issues which arise as a group, once established.

### **Terms of Reference**

11. There is currently no national guidance or 'template' for H&WBs Terms of Reference. There is little consistency in the scope and extent of the terms of reference which currently govern H&WBs/ Shadow H&WB elsewhere. A draft ToR giving specific reference to the H&WBs statutory functions is proposed below. The City's H&WB may later choose to spell out in greater detail what its roles and responsibilities will be.

#### **"To be responsible for:-**

1. **carrying out all duties conferred by the Health and Social Care Act 2012 ("the HSCA 2012") on a Health and Wellbeing Board for the City of London area, among which:-**
  - i. **to provide collective leadership for the general advancement of the health and wellbeing of the people**

**within the City of London by promoting the integration of health and social care services;**

- ii. to identify key priorities for health and local government commissioning, including the preparation of the Joint Strategic Needs Assessment and the production of a Joint Health and Wellbeing Strategy.**

**All of these duties should be carried out in accordance with the provisions of the HSCA 2012 concerning the requirement to consult the public and to have regard to guidance issued by the Secretary of State;**

- 2. mobilising, co-ordinating and sharing resources needed for the discharge of its statutory functions, from its membership and from others which may be bound by its decisions; and**
  - 3. appointing such sub-committee as are considered necessary for the better performance of its duties.”**
12. The above terms of reference have been designed to ensure that the new H&WB is able to discharge all of the statutory duties which the Act has conferred upon it. Other ‘statutory’ committees of the City Corporation, (for example, the Licensing Committee) have similar terms of references that rely largely on references to legislation, rather than spell out each of the Committee duties.
13. Your Committee is asked to consider and endorse the above Terms of Reference.

### **Membership and Chairmanship**

14. The HSCA 2012 is prescriptive of the minimum membership of H&WBs. The local authority has power to add members to the H&WB as it sees fit.

The Act sets out the core membership as follows:-

- a. at least one councillor of the local authority, nominated by the Leader (or in non-executive authorities (e.g. the City), by the Local Authority).
  - b. the director of adult social services for the local authority,
  - c. the director of children’s services for the local authority,
  - d. the director of public health for the local authority,
  - e. a representative of the Local ‘Healthwatch’ organisation for the area of the local authority,
  - f. a representative of each relevant clinical commissioning group (CCG), and
  - g. such other persons, or representatives of such other persons, as the local authority thinks appropriate.
15. In general, local authorities have chosen to have Cabinet or Lead Members responsible for Health, Leisure, Adult and Children’s Services, etc. represented on their respective H&WBs. Consequently, some have up to 4 elected councillors on the Board (e.g. Hounslow).
16. It would seem appropriate to give consideration to including:-

- a. The Chairman of the Community & Children's Services or his/her nominee.
  - b. the Chairman of the Port Health & Environmental Services Committee, or his/her nominee, given the link to Environmental Health (i.e. Air Pollution, etc.)
  - c. the Chairman of the Energy and Sustainability Sub-Committee or his/her nominee; and
  - d. Up to 3 Members of the CoCo appointed by the Common Council (who are not members of the Health and Care Scrutiny Committee – see *paragraph 20 below*). These Members could be elected before April 2013 to enable them to sit on the Shadow H&WB for the remaining of the interim period.
17. Although its membership should represent a wide field of stakeholders, the H&WB should also consider alternative ways to maximise engagement with the City communities, and opt for a smaller core membership but a wider network for engagement through the establishment of thematic groups with co-opted members, etc.
18. In its published guidance, LGA indicates that the H&WB Chair “is usually a councillor, although exceptionally it could be a CCG member or someone independent. In a number of areas, CCGs hold the vice chair. When a board becomes a council committee the council’s standing orders would need to be amended to allow a chair who is not a councillor.”
19. Your Committee is asked to consider and endorse the Membership set out in Appendix 2. Members are also asked to endorse the convention that the Chairman of the H&WB should be a Member of the CoCo, to ensure a suitable representation at the Court of Common Council, noting that a suspension of standing orders might be needed to allow Chairmen of other Committees to also chair the H&WB, if elected to do so.

### **The City's Health Scrutiny Function**

20. Since 2001, local authorities have had a duty to provide scrutiny of health matters relating to the health service in the authority's area. The City of London has discharged this function through the Health & Social Care Scrutiny Sub-Committee of the Community & Children's Services Committee.
21. The Department of Health has recently announced its intention to 'strengthen and streamline' how local authority health scrutiny to coincide with the introduction of H&WB and the general reforms of the NHS. In a consultation document dated 12 July 2012, the Government outlined proposals to change the way local authorities discharge these specific changes. The proposals, in brief, aim to give greater flexibility to local authorities by removing the need for health scrutiny to be delivered necessarily by 'scrutiny committees' and allowing them to fulfil these duties through 'suitable alternative arrangements'. The proposals also seek to adjust the power of traditional health overview and scrutiny committees over decisions about the re-configuration of local NHS services (in particular, concerning referrals to the Secretary of State in case of disputes).

22. The way in which the City discharges its health scrutiny function may need to be reviewed once the outcome of the government's consultation is known.

### **The Way Forward**

23. The Policy & Resources Committee has the responsibility for all matters relating to the review of governance arrangement in the City of London. The final proposals will need to be put forward by that Committee to the Common Council. This would follow a timetable for consultation as follows:-

7 November 2012	Shadow Health & Wellbeing Board
8 November 2012	Policy & Resources Committee
13 November 2012	Port Health & Environmental Services Committee
6 December 2012	Court of Common Council – Appointment of three Court of Common Council members to the Shadow H&WB
25 April 2013	First meeting of the Court – Appointment of Committees

24. The Shadow H&WB suggested that the Membership of the Board should be reviewed at the end of its first year of operation (April 2014) to ensure that it is fit for purpose.

### **Corporate & Strategic Implications**

25. As set out above, there will be a need to consider how the developing work of the H&WB is likely to impact on the work of other committees. A need for minor changes to the Standing Orders is likely to be required to allow chairmen of other Committees to also chair the H&WB.

### **Conclusion**

26. The City Corporation needs to ensure that it responds effectively to the changes relating to the way health services are commissioned and delivered in the Square Mile. This report deals with the need to formally set up a H&WB in April 2013 and outlines the steps to be taken to achieve that goal.

### **Appendices:**

Appendix 1: Current Members of the Shadow Board

Appendix 2: Proposed Membership of the H&WB in April 2013

### **Contact:**

*Ignacio Falcon | Ignacio.Falcon@cityoflondon.gov.uk | 020 7332 1405*