



Report – Policy & Resources Committee

Establishment of a Health & Wellbeing Board

To be presented on Thursday, 6th December 2012

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

Summary

The Health and Social Care Act 2012 (“The HSCA 2012”) is introducing 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 over 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 in each local authority area. The City will need to have its own H&WB set up by April 2013.

The steps to ensure compliance with these new legal requirements were the subject of consultation with the City’s ‘Shadow’ Health & Wellbeing Board and your Community and Children’s Services, Port Health & Environmental Services and Policy & Resources Committees. The proposals before Members today are the result of detailed and constructive discussions at all of these, and we believe that they will enable the City and partner agencies to discharge these important new functions effectively.

Recommendations

We recommend that:-

- a) with effect from April 2013, a Health & Wellbeing Board be established as a committee of the Common Council, with the constitution and terms of reference set out in the Appendix; and
- b) the convention that the Chairman of the Health & Wellbeing Board should be a Member of the Court of Common Council be endorsed.

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 (the equivalent of what is currently known as LINK) and the setting 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 these H&WBs to provide a means of integrating all aspects of public health in the local area.

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. The Shadow Board examined and shaped proposals for the governance of the City’s H&WB, before these being considered by the Community & Children Services, the Port Health & Environmental Services and the Policy & Resources Committee. The views obtained through this process of consultation have been taken on board in the design of these final proposals.

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 to undertake a Joint Strategic Needs Assessment (JSNA) and develop a joint Health and Wellbeing Strategy for the City of London (s.192-193).

Positioning within the City Corporation

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. 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.
9. 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 political proportionality, voting by officers and, more generally, the application of local authority standing orders. Section 194(2) of the HSCA 2012 allows the Secretary of State to create regulations enabling the H&WB to be exempted from some of the established practices in local government. These regulations are expected to be produced in January 2013 and they are intended to overcome many of the initial issues associated with the unusual configurations of H&WBs.
10. 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 that H&WBs should 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 References. 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.

Membership and Chairmanship

13. 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.
14. 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).

15. Following consultation, it is proposed that Common Council representation on the Health & Wellbeing Board should be as follows:-
 - a. the Chairman of the Policy & Resources Committee or his/her representative;
 - b. the Chairman of the Community & Children's Services or his/her representative;
 - c. the Chairman of the Port Health & Environmental Services Committee, or his/her representative, and
 - d. Up to 3 Members appointed by the Common Council (who are not members of the Health and Social Care Scrutiny Sub-Committee – see paragraph 20). These Members are to be elected in January 2013 to enable them to sit on the Shadow H&WB for the remaining of the interim period.
16. The full proposed Membership (including Members of the Common Council, as well as other statutory Members and representatives of key agencies) is set out in the Appendix.
17. We also recommend the endorsement of the convention that the Chairman of the H&WB should be a Member of the Common Council, to ensure a suitable representation at the Court, 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

18. 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.
19. The Department of Health has announced its intention to 'strengthen and streamline' how local authorities carry out health scrutiny to coincide with the introduction of H&WB and the general reforms of the NHS. The Government has outlined proposals to give greater flexibility to local authorities in how they perform health scrutiny by removing the requirement for there to be 'scrutiny committees' and allowing authorities to fulfil these duties through any 'alternative arrangements' which they consider suitable. The proposals also seek to re-balance the power of 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).
20. The way in which the City Corporation discharges its health scrutiny function is to be reviewed once the outcome of the government's consultation is known. In the meantime, the HSCA 2012 is clear that the functions of the H&WB and the Health Scrutiny Sub-Committee are not compatible (s.196)

and, therefore, it has been agreed that Members should not be able to serve on both of these at the same time.

Corporate & Strategic Implications

21. 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

22. 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 Health & Wellbeing Board in April 2013 and seeks the Court's approval of a set of proposals that has been the subject of detailed consultation with Committees and key stakeholders.

All which we submit to the judgement of this Honourable Court

DATED this 8th November 2012

SIGNED on behalf of the Committee

Mark Boleat
Chairman of the Policy & Resources Committee

HEALTH & WELLBEING BOARD

1. **Constitution**

A Non-Ward Committee consisting of,

- three Members elected by the Court of Common Council (who shall not be members of the Health and Social Care Scrutiny Sub-Committee)
- the Chairman of the Policy and Resources Committee (or his/her representative)
- the Chairman of Community and Children's Services Committee (or his/her representative)
- the Chairman of the Port Health & Environmental Services Committee (or his/her representative)
- the Director of Public Health or his/her representative
- the Director of the Community and Children's Services Department
- a representative of Healthwatch appointed by that agency
- a representative of the Clinical Commissioning Group (CCG) appointed by that agency
- the Chairman of the SaferCity Partnership Steering Group (or in his/her place, the Deputy Chairman)
- the Environmental Health and Public Protection Director
- a representative of the City of London Police appointed by the Commissioner

2. **Quorum**

The quorum consists of five Members, at least three of whom must be Members of the Common Council or officers representing the City of London Corporation.

3. **Terms of Reference**

To be responsible for:-

- a) 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; and
 - 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;

- b) 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
- c) appointing such sub-committees as are considered necessary for the better performance of its duties.