

BOROUGH OF TELFORD & WREKIN

HEALTH AND WELLBEING BOARD – 23 JANUARY 2013

HEALTH AND WELLBEING BOARD AS A STATUTORY COMMITTEE OF THE COUNCIL

REPORT OF THE ASSISTANT DIRECTOR – SOCIAL CARE SPECIALIST

1. Summary

1.1 This report sets out our current understanding of the rules that appear to apply to Health and Wellbeing Boards as a Committee of the Council from 1 April 2013, when authorities take over a number of public health functions. However we are still waiting for the Regulations to be laid before Parliament and this report is subject to those Regulations and Guidance that will follow.

1.2 The Health and Wellbeing Board is asked to make provisional recommendations for approval through the Council's Constitution Committee and Council in respect of:

- Establishing the Health and Wellbeing Board as a Committee of the Council
- The proposed membership of the Board including political proportionality
- Delegation of functions and decision making responsibility
- Possible creation of any Sub-Committees of the Board
- Endorsing Scrutiny arrangements for Health and Social Care functions of the Council
- Development of appropriate protocols for public involvement

2. Information

2.1 As you are aware the Health and Social Care Act 2012 (Section 194) places a statutory responsibility on the Council to have a Health and Wellbeing Board in place from the 1 April 2013. Up until this point the Board has been meeting in shadow form but in preparation for the 1 April the Board needs to be established as a formal Committee of the Council in accordance with statutory requirements and guidance.

2.2 The proposed structure of Health and Wellbeing Boards do not align with the traditional local authority executive/committee structures. To deal with this the Department of Health is planning to implement regulations governing the operation of Health and Wellbeing Boards (as per Section 194 (12) of the Health and Social Care Act). It is planning to lay the regulations before Parliament in January 2013, and they will come into force on 1 April 2013.

2.3 The Council is having to develop its thinking on this in the absence of the regulations being laid before Parliament but the Department of Health has published a paper outlining the issues it intends to include in the regulations. The regulations will allow Health and Wellbeing Boards to function as a committee of the local authority. However there will be some opportunity for local determination.

2.4 The key points at this stage appear to be:

2.4.1 Establishment of sub-committees and delegation

Unless a local authority directs otherwise, a committee can establish a subcommittee to discharge any of its functions. It is proposed that the regulations will enable Health and Wellbeing Boards to be able to establish subcommittees and delegate functions to them. Whether or not to establish sub-committees will be a matter for local determination.

2.4.2 Voting restrictions

Current legislation means that any members of a committee who are not members of the local authority should be treated as non-voting members, except in relation to a specified set of committees. The regulations are intending to remove this barrier and to enable local authorities to empower all key members of the board to vote alongside the elected representatives. This could also apply to any additional board members appointed in addition to the statutory membership set out in the Health and Social Care Act 2012.

2.4.3 Political Proportionality

Seats on local authority committees and sub-committees are normally allocated to reflect the prevailing political proportionality of the local authority. The Department of Health is proposing to disapply the provisions of the existing legislation requiring political balance in relation to Health and Wellbeing Boards so that the question of political proportionality of Health and Wellbeing Board membership is left to local determination.

2.4.4 Disqualification for membership

The current legislative framework states that any person who would be disqualified from being able to stand for election as a councillor shall be disqualified from being a member of a committee or sub-committee of a local authority. The Department of Health has indicated that its general policy intention is to retain the disqualifications, but the regulations will ensure the disqualifications do not apply to Health and Wellbeing Boards in so far as they cover disqualifications in respect of members of the board:

- Holding any paid employment or office in the local authority
- Being the subject of a bankruptcy restrictions order or interim order
- Having been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine

2.4.5 Application of a code of conduct and declarations of interest

The Council has adopted a code of conduct.

The new regulations will apply this code of conduct to members of the Health and Wellbeing Board even if they are not elected members. However, the Department of Health is exploring whether a modification is necessary in relation to Clinical Commissioning Group participation in discussions and decisions in which they could otherwise potentially be excluded.

2.4.6 Application of transparency provisions

There is a strict set of rules governing access to documents and meetings of local authority committees and sub-committees, and there are prescribed situations in which the public can be excluded from meetings and when local authorities can withhold documents from inspection. The regulations will not disapply or make any modifications to the existing provisions, which will apply to Health and Wellbeing Boards unchanged.

2.5 However even with these regulations in place the Council will need to make appropriate decisions about its local Health and Wellbeing Board such as:

- Establishment of the Health and Wellbeing Board as a Committee of the Council – this needs to be agreed by full Council.
- The decision making delegated to the Committee by full Council?
- Establishment/power to establish any sub-committees it may choose to have
- Membership of the Board and voting rights – see Appendix 1 proposed members
- Political Proportionality – It will be proposed that the Councillor members of the Board will be the Deputy Leader (Chair) and cabinet Members for Adult Social Care, Children and Families and
- Development of appropriate protocols for public involvement

2.6 It is recognised that several organisations have asked for a seat on the Board but to date membership has not been extended. However the H&W Board need to make a specific decision about a request from the West Midlands Criminal Justice Board to allow the local T&W Criminal Justice Board and its members to have one seat on the Health and Wellbeing Board. This request has come through Richard Partington, the Council's Managing Director who sits on the West Midlands Board.

2.7 In addition to the above areas the members of the Health and Wellbeing Board have been asked to provide a view on the Scrutiny arrangements for Health and Social Care. The Health and Social Care Act vests responsibility for deciding local health and social care scrutiny arrangements with full Council. The Health and Wellbeing Board are asked to endorse the recommendations that Council delegates the health scrutiny function and powers to the relevant Scrutiny Committee and that the power of referral to the Secretary of State is also delegated to this Scrutiny Committee. The board may also wish to comment on the view of the Department of Health that in a delegated arrangement it is right that full council should be fully sighted on how the powers for which it is accountable are being exercised. E.g. that the HOSC notify full council of an intention to refer a matter to the Secretary of State before a referral is made.

2.8 The formal route for approving the final recommendations is:

Senior Management Team – 4 Feb 2013
Policy Review – 14 Feb 2013
Council Constitution Committee – 19 Feb 2013
Council - 7 March 2013

2.9 In due course the Health and Wellbeing Board needs to give consideration to:

- Template development for reports
- Advisory Group – Terms of Reference

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APPENDIX 1

TELFORD AND WREKIN HEALTH AND WELLBEING BOARD MEMBERS

Local Authority Elected Cabinet Members:

- Cllr Richard Overton (Chair HWB) (Cabinet Member responsible for wider Health services and Deputy Leader TWC)
- Cllr Liz Clare (Vice Chair HWB) (Cabinet Member for Adult and Social Care)
- Cllr Paul Watling (Cabinet Member for Children, Young People and Families)
- Cllr Arnold England (Cabinet Member for Leisure and Wellbeing)

Clinical Commissioning Group (CCG):

- Dr Mike Innes (Chair CCG)
- Dylan Harrison (Non Executive Director CCG)
- Dave Evans (Chief Operating Officer)

Local Authority Officers:

- Paul Clifford (Director responsible for Adult Social Care)
- Laura Johnston (Director responsible for Children's Services)

Public Health (currently NHS but will transfer to local authority by April 2013):

- Dr Catherine Woodward (Director of Public Health)

LINK – representative of patient and service users:

- Dag Saunders (Chair LINK)

NHS T&W/NHS Commissioning Board:

- Graham Urwin (Local Area Team Director NHSCB)