

North Tyneside Council

Report to Council

Date: 14 March 2013

ITEM 12

Title: Establishment of
Health and Wellbeing
Board

Portfolio(s): Public Health and Adult
Social Care

Cabinet Member(s): Councillor L Miller

Report from Directorate: Law and Governance, Chief Executive's Office

Report Author: Vivienne Geary, Head of Law and Governance (0191) 643 5339

David Brown, Law and Governance (0191) 643 5358

Wards affected: All

PART 1

1.1 Purpose:

The purpose of the report is to establish a Health and Wellbeing Board in accordance with the legislative requirement to set up the Board by 1 April 2013.

1.2 Recommendation(s):

It is recommended that Council:

- (1) establish a Health and Wellbeing Board to undertake those core statutory functions set out in Section 1.6.1 of the report;
- (2) agree the membership of the Board as set out in Section of 1.7.2 of the report; and
- (3) request the Head of Law and Governance to prepare a further report to enable the Council to determine the terms of reference for the Board, procedural rules and any other related governance and constitutional matters.

1.3 Forward Plan:

This report first appeared on the Forward Plan that was published on 6 March 2013.

1.4 Council Plan and Policy Framework

This report has no direct link to the Council Strategic Plan 2012/15. It is relevant to the Sustainable Community Strategy 2010-13 priority that "Health inequalities are reduced and people receive the care and support they need to enjoy healthy lifestyles at all ages".

1.5 Information:

- 1.5.1 The Health and Social Care Act 2012 (the HSCA) requires the Council to appoint a Health and Wellbeing Board by 1 April 2013. The legislation aims to provide local authorities and their partners with considerable flexibility to establish and operate Boards in way that suits local circumstances so long as they conform with the underlying principles laid down in the HSCA. The requirements set out in the HSCA include the functions which must and may be exercised by the Board, those persons who must be members of the Board and those aspects of local government law that will apply to meetings of the Board.
- 1.5.2 Detailed regulations clarifying the legal framework and guidance issued by the Local Government Association in conjunction with the Association of Democratic Services Officers on the governance of Boards were both published in February. In order to provide sufficient time to consider the contents of these documents and allow consultation with relevant stakeholders it is proposed that the Council establishes a Health and Wellbeing Board, in accordance with the statutory requirements, on an interim basis, but delays final determination of its membership, terms of reference, procedural rules and other constitutional issues until May 2013.
- 1.5.3 This report describes the legal framework within which the Board must operate and highlights those discretionary areas where further local consideration will be required. These issues will be addressed with the Elected Mayor, Group Leaders, the Constitution Task Group, the Council's Strategic Directors of Community Services and Children, Young People and Learning and Director of Public Health, members of the existing shadow Health and Wellbeing Board and health partners. Following these discussions a report will be prepared and submitted to Cabinet in May and the Annual Council meeting to review the membership of the Board and to propose amendments to the Council's Constitution, making provision for the Board's terms of reference and procedural rules.

1.6 Functions

- 1.6.1 In accordance with the HSCA, the Board must exercise the following functions:-
- prepare a Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS);
 - encourage health and social care commissioners to work in an integrated manner to improve the health and wellbeing of people in the area; and
 - provide advice, assistance or other support to encourage the making of joint arrangements between health and social care commissioners (i.e. lead commissioning, pooled budgets and/or integrated provision).
- 1.6.2 The Board may also:-
- encourage commissioners of health related services (such as housing and other local government services) to work closely with the Board and health and social care commissioners;
 - ensure that the Council and its clinical commissioning groups take proper account of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy in exercising their functions;
 - exercise any functions of the local authority delegated to it by the Council or its executive.

1.6.3 Further consideration will be given to the terms of reference of the Board, taking into account the discretionary powers available and the experience and existing scope of the shadow Board that has operated since December 2010. The Council, Elected Mayor and/or Cabinet will need to give particular consideration as to whether they wish to delegate any of their health related functions to the Board. In the meantime it is recommended that the Board be established to exercise the core statutory functions set in paragraph 1.6.1.

1.7 Membership

1.7.1 Pursuant to the requirements of the HSCA the Membership of the Board must include:-

- a) at least one councillor and/or the Elected Mayor, to be nominated by the Elected Mayor;
- b) the director of adult social services;
- c) the director of children's services;
- d) the director of public health;
- e) a representative of the local healthwatch organisation, appointed by Healthwatch;
- f) a representative of each clinical commissioning group operating in the area. A single representative can represent more than one group.
- g) such other persons or representatives as the Council thinks appropriate;

In addition to the above, the Council and/or the Board may also appoint such additional persons as it thinks appropriate.

1.7.2 In accordance with these statutory requirements, the initial membership of the Board will be:-

- a) the Elected Mayor and/or any councillor as nominated by the Elected Mayor;
- b) Paul Hanson, Strategic Director of Community Services, as the Council's designated director of adult social services;
- c) Gill Alexander, Strategic Director of Children, Young People and Learning, as the Council's director of children's services;
- d) Marietta Evans, the Director of Public Health;
- e) a representative of the North Tyneside NHS Clinical Commissioning Group (to be reported at the meeting);
- f) a representative of the local healthwatch organisation.

1.7.3 The local healthwatch organisation, Healthwatch North Tyneside, does not come into operation until 1 April 2013 and so the representative of the organisation will be appointed shortly after that date.

1.7.4 Further consideration will be given as to other persons who it may be appropriate to appoint to the Board. Any such proposals will be presented to Council for approval.

1.7.5 As with other committees the Council will be requested to re-appoint the membership of the Board at each Annual Council meeting.

1.8 Procedure Rules

- 1.8.1 The Board will be deemed to be a committee of the Council. Therefore the legislative requirements which normally apply to the Council's committees will also apply to the Board. However, the Government have acknowledged that the Board will, as a forum for collaborative local leadership, be very different to a normal committee and therefore the Secretary of State has issued regulations so that specific requirements do not apply or are modified in relation to the Board.
- 1.8.2 Taking into account the regulations, a set of procedure rules for the Board will be prepared and agreed by Council for inclusion in the Council's Constitution. The procedural rules will provide for the following legislative requirements:-
- a) The Council or the Board may appoint sub-committees and in doing so may determine their membership and term of office. The Board may:-
 - delegate its statutory functions to a sub-committee;
 - delegate any Council functions, delegated to it by the Council and/or Cabinet, to an officer; and
 - appoint one or more sub-committees to advise the Board.Further consideration will need to be given as to whether it is desirable to appoint sub-committees of the Board, and if so to determine their membership and functions.
 - b) Any person who is subject to bankruptcy proceedings or who has been sentenced for not less than 3 months imprisonment in the last five years is disqualified from serving as a member of the Board.
 - c) All matters coming before the Board will be decided by a majority of those members of the Board present and voting on the matter. The Council can decide in consultation with the Board, who may be a voting member. All Members of the Board will be able to vote until the Council decides otherwise.
 - d) The rules relating to the allocation of committee seats according to the political balance of the Council do not apply to the membership of the Board.
 - e) The North Tyneside Code of Conduct for Elected Members and Co-opted Members will apply to all voting members of the Board, including Council officers and health partners. Consequently all voting Board members will be required to register disclosable pecuniary interests and other interests, declare such interests in meetings and if necessary not participate in any discussions and voting.
 - f) Meetings of the Board shall be open to the public, unless this is likely to lead to the disclosure of confidential or exempt information.
 - g) The Board's agenda and reports must be published and made available for inspection five clear days before each meeting. A public notice of each Board meeting must be given at least 5 clear days prior to the meeting. Any background documents used in the compilation of reports must be listed and made available for inspection for four years. The Board's agenda, reports and minutes shall remain open to inspection for a period of six years following each meeting.

1.9 Dates and Times of Meetings

1.9.1 The dates and times of Board meetings have been incorporated into the Council's programme of meetings. This is a separate item on the agenda for tonight's Council meeting. It is currently proposed in accordance with that agenda item that the date of the first meeting of the Board will be 4 June 2013.

1.10 Decision options:

The following decision option is available for consideration by Council in view of the statutory requirement to establish a Health and Wellbeing Board by 1 April 2013:

Option 1

- a) establish a Health and Wellbeing Board to undertake those core statutory functions set out in Section 1.6.1 of the report;
- b) agree the membership of the Board as set out in Section of 1.7.2 of the report; and
- c) request the Head of Law and Governance to prepare a further report to enable the Council to determine the terms of reference for the Board, procedural rules and any other related governance and constitutional matters.

As the Council is being recommended to establish the Board on the basis of its statutory functions and membership, pending further discussion and consideration by stakeholders, options regarding the membership, functions and operation of the Board are to be presented to a future Council meeting for determination.

1.11 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The Council is required to establish a Health and Wellbeing Board by 1 April 2013. Option 1 will enable the Council to fulfil this requirement whilst allowing sufficient time to give due consideration to the regulations and guidance that has recently been published and to allow consultation with relevant stakeholders.

1.12 Appendices:

None.

1.13 Contact officers:

Michael Robson, Democratic Services Officer, Law and Governance,
tel. (0191) 643 5359

Alison Campbell, Finance Business Manager, Finance & Resources Directorate,
tel (0191) 643 7038

1.14 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Health and Wellbeing Boards – A practical guide to governance and constitutional issues
- (2) Health and Social Care Act 2012
- (3) The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The costs associated with the operation of the Board will be contained within existing budgets.

2.2 Legal

Section 194 of the Health and Social Care Act 2012 states that a local authority must establish a Health and Wellbeing Board for its area. The Board must be established by 1 April 2013.

Pursuant to the Council's executive arrangements under the Local Government Act 2000 section 9D, Cabinet has responsibility for all matters of council business except where otherwise provided for in law, in particular by the Local Authorities (Functions and Responsibilities) (England) Regulation 2000. The establishment of the Health and Wellbeing Board, appointment of additional persons to the Board over and above the core membership, and voting rights, are identified as responsibilities of the Council, however other core functions undertaken by Health and Wellbeing Board and other associated public health functions are not reserved to Council and are therefore executive functions. If any functions reserved to Council are delegated to the Board by Council they will remain as Council functions but noted as being discharged by the Board on the Council's behalf.

2.3 Consultation/community engagement

Further consultation with the Elected Mayor, Group Leaders, the Constitutional Task Group, the Council's directors of adult social services, public health and children's service, members of the existing shadow Health and Wellbeing Board and health partners will be undertaken prior to a further report being submitted to Council.

A representative from each Political Group has served on the Shadow Health and Wellbeing Board since December 2010. In addition, the developing functions of the Board have been discussed at three separate Member briefing sessions on NHS Reform.

2.4 Human rights

There are no Human Rights implications arising from this report.

2.5 Equalities and diversity

An equalities impact assessment will be undertaken in respect to the establishment and operation of the Board. Particular consideration will be given to develop ways of working that meet the needs of Board members and the communities they serve to ensure everyone who attends meetings understands what is happening and they are able to participate where appropriate.

2.6 Risk management

A risk assessment has not been undertaken in connection to this matter.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability issues arising from this report.

PART 3 - SIGN OFF

- Chief Executive
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Strategic Manager Policy, Partnerships Performance and Communications.