Joint Report of the Director of Policy and Resources and the Director of People

Agenda Item No:
Meeting: 26 March 2013

NORTH LINCOLNSHIRE COUNCIL

CABINET

THE NORTH LINCOLNSHIRE HEALTH AND WELLBEING BOARD

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To consider the establishment of the formal North Lincolnshire Health and Wellbeing Board (HWBB).

1.2 To consider the detailed arrangements for the operation of the board.

2. BACKGROUND INFORMATION

2.1 The Health and Social Care Act 2012 (the Act) establishes Health and Wellbeing Boards as a forum where key leaders from the health and care system work together to improve the health and wellbeing of their local population and reduce health inequalities. Each top tier and unitary authority will have its own health and wellbeing board.

2.2 The principles which underlie the creation of health and wellbeing boards include -

- Shared leadership of a strategic approach to the health and wellbeing of communities that reaches across all relevant organisations.
- A commitment to driving real action and change to improve services and outcomes.
- Parity between board members in terms of their opportunity to contribute to the board's strategies and activities.
- Shared ownership of the board by all its members (with commitment from their nominating organisations) and accountability to the communities it serves.
- Openness and transparency in the way the board carries out its work.

- Inclusiveness in the way it engages with patients, service users and the public.

2.3 The Act gives boards specific functions. These are a statutory minimum and further functions can be given to the board in line with local circumstances. The statutory functions are -

- To prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs) which is a duty of local authorities and clinical commissioning groups (CCGs).

- A duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the NHS Act 2006 (re lead commissioning pooled budgets and/or integrated provision) in connection with the provision of health and social care services.

- A power to encourage close working between commissioners of health related services and the board itself.

- A power to encourage close working between commissioners of health related services (such as housing and many other local government services) and commissioners of health and social care service.

The Council could delegate any other functions to the board. However it may be more appropriate to delegate other related functions to the relevant Cabinet Member. It may also be appropriate to delegate some functions to officers. The delegation of functions will need to be carefully considered.

It should be noted that the more detailed operational decisions that the board seeks to discharge may potentially lead to greater consideration by members about the need to declare interests as outlined in paragraph 2.12.

2.4 The Act requires councils to establish and participate in the health and wellbeing board and through the board to:

- Prepare and publish a Joint Strategic Needs Assessment (JSNA) and a Joint Health and Wellbeing Strategy (JHWS) to meet the needs identified in the JSNA in relation to the local area.

- Involve third parties in the preparation of the JSNA and JHWS including the local health watch and people living or working in the area, having regard to guidance from the Secretary of State.

- Together with each of its partner clinical commissioning groups, to have regard to the JSNA and JHWS in the exercise of any function.

- When developing the JHWS, consider the extent to which needs could be met more effectively by making arrangements under the National Health Service Act 2006, to pool health budgets.

2.5 In North Lincolnshire a shadow health and wellbeing board has been in existence for some time and has been working on some of the key strategic issues around health and wellbeing. Much of the ground work has therefore been done in terms of the JSNA and the JHWS. This will continue through enhanced partnership working.

2.6 The secondary legislation has now been published through regulations, along with a practical guide to governance and constitutional issues in relation to health and wellbeing boards.

2.7 Under Section 194 of the Health and Social Care Act 2012 the health and wellbeing board is a committee of the council which established it and for the purposes of any enactment is to be treated as if appointed under Section 102 of the Local Government Act 1972. It is therefore a Section 102 Committee. However, the Regulations modify and disapply certain provisions of Section 102 and other sections of the Local Government Act 1972 and also some provisions of the Local Government and Housing Act 1989**.** relating, in particular, to political proportionality**.** It is now necessary to consider the membership, governance and constitutional arrangements and the way the board will operate on a practical level.

Membership

2.8 Health and wellbeing boards must include six statutory members as follows -

- At least one Councillor, who will be (or be nominated by) the Leader of the Council

- The Director of Adult Social Services

- The Director of Children's Services

- The Director of Public Health

- A Representative of Local Healthwatch

- A Representative of each relevant Clinical Commissioning Group (CCG)

2.9 The legislation also states that beyond the statutory members, the board can also include such other persons, or representatives of such other persons, as the council thinks appropriate. The board once constituted will have the power to appoint additional members as it sees fit. The council may also appoint such other additional members as it sees fit (in consultation with the board if an appointment is made after the establishment of the board).

2.10 The legislation is aimed at allowing considerable flexibility to councils and their partners on health and wellbeing boards to set up and run boards that conform to the principles set out in paragraph 2.2 above in a way that suits local circumstances. This means that a number of options are possible. Details of options are set out in paragraph 3.

2.11 It is also suggested that the membership of the board should be reviewed annually at the Annual Meeting of the Council. This will allow the membership to stay relevant to the work that the board chooses to focus on.

Interests

2.12 All voting members of the health and wellbeing board will be subject to the council's Code of Conduct for Elected Members when acting as a member of the board and will be subject to declarations of disclosable pecuniary interests. For some officers on the board this is very different to what they will be used to. Arrangements will be made to brief Board Members about their responsibilities in relation to the Code of Conduct etc.

Voting

2.13 The clear intention behind the legislation is that all members of health and wellbeing boards should be seen as equals and as shared decision makers. The aim is for the board to bring together political, professional and clinical leaders and local communities together on an equal basis. A number of councils are proposing to include in the terms of reference or constitutions of their health and wellbeing boards an explicit commitment to decision making by consensus where possible. However, all members of the health and wellbeing board will be able to vote unless the council decides that certain members of boards should not be able to vote. Councils remain free to make a distinction between the voting rights of councillors and other board members when giving directions under the Regulations. Consideration will need to be given to this issue.

Delegation by the Board

2.14 Unless the council directs otherwise, the board can establish sub committees and can delegate functions to such sub committees in addition to being able to delegate functions to an officer. This is clearly a matter for local determination.

Transparency and Openness

2.15 The regulations do not modify the legislation in relation to transparency requirements in relation to health and wellbeing boards. This means that they are subject to the same requirements of openness and transparency as other Section 102 committees. The Access to Information Regulations therefore apply to the health and wellbeing board with regard to making copies of agendas and reports of meetings open to inspection by the public. In addition, the Freedom of Information Act 2000 provides a general right of access to information held by public authorities and regulations under the Local Government Act 2000 make provision for public access to meetings and to information relating to decisions of council executives and committees. These provisions would also apply to sub committees of the board, although they would not apply to less formal sub structures such as working groups which do not make decisions, but simply report and make recommendations to boards.

Health Scrutiny

2.16 Health and wellbeing boards and the council's health scrutiny function remain as separate entities. The regulations enable local authorities to review and scrutinise matters relating to the planning, provision and operation of the Health Service in their areas. In North Lincolnshire this is normally carried out through the council's health scrutiny panel. In addition, councils must continue to respond to referrals received from local health watch organisations and the power of referral to the Secretary of State remains with the council normally via the health scrutiny panel, unless a Joint Scrutiny Committee is established in which case the referral to the Secretary of State would be from that committee.

This means that the health scrutiny panel can scrutinise the work of the health and wellbeing board in the same way that it scrutinises other health functions.

The guidance to the regulations suggests that there will need to be a three way relationship between health and wellbeing boards, scrutiny committees, particularly health scrutiny committees and the local health watch. It also suggests that there is a need to develop protocols or memorandum of understanding between the three elements of this relationship to ensure clarity and mutual understanding of roles and responsibilities. Work is already underway to develop such a protocol in North Lincolnshire. In addition, as well as scrutinising the work of boards, the health scrutiny panel may also be in a position to assist boards to other ways. For example, the health and wellbeing board could ask a health scrutiny panel to carry out investigation through a scrutiny review.

Other matters for consideration

2.17 As detailed above the health and wellbeing board must be established as a committee of the council. The organisation and management of meetings should therefore be the responsibility of the Legal and Democratic Services Division of Policy and Resources. This will not require any additional resources from the council.

When decisions have been made by council about the broad framework of the board in relation to the issues set out in the preceding paragraphs, consideration will need to be given to the detailed terms of reference and working arrangements of the board, the current functions of the individual cabinet members in relation to health, the detailed terms of reference of the health scrutiny panel and any other related matters.

3. OPTIONS FOR CONSIDERATION

3.1 The requirement to establish a North Lincolnshire Health and Wellbeing Board is statutory. However, there is clear flexibility within the legislation to allow councils to consider different options for the way boards can be established and operate. The following options are outlined for discussion -

Option 1

3.1.1 To establish a health and wellbeing board to undertake statutory functions with a core of statutory members enhanced by the presence of a wider group of partners based on the membership of the Shadow Board.

3.1.2 To implement voting arrangements that reflect the statutory members and the leadership role of the Local Authority with the Chairman and Vice Chairman to be from the Local Authority.

3.1.3 In North Lincolnshire the Director of People acts as both Director of Children's and Adult Services and thus would have one vote. The addition of the Chief Executive to the Board would retain a voting membership of 6.

3.1.4 Voting members would therefore be -

- One Councillor (nominated by the Leader of the Council)
- The Director of People
- The Chief Executive of North Lincolnshire Council
- The Director of Public Health
- A Representative of Local Healthwatch
- A Representative of each relevant Clinical Commissioning Group (CCG)

3.1.5 To have a schedule of quarterly public meetings in line with expectations for openness and transparency supplemented by Chairman's briefings and informed by the outputs from development sessions with all members of the board to encourage inclusion, integration, partnership, accountability and delivery of required outcomes.

3.1.6 To have the option for a member of the public to address the board at the start of all board meetings.

3.2 **Option 2**

3.2.1 To establish a Health and Wellbeing Board to undertake statutory functions with a core of statutory members only.

4. ANALYSIS OF OPTIONS

4.1 Some analysis of the two options is set out as follows -

Option 1

4.1.1 The challenge in North Lincolnshire is to reduce inequalities as the diversity of our population increases, the number of older people increases and our financial resources are increasingly tightened.

4.1.2 In this context the inclusion of a broader partnership will ensure there are more people to be involved in the work of the board and in meeting the challenges described above. This is in line with the principles which underpin the creation of health and wellbeing boards set out in paragraph 2.2.

4.1.3 There will be greater opportunity to directly impact on the wider social determinants of health and well being that influence the inequalities agenda.

4.1.4 Establishing a broader partnership board will enhance the Council's reputation for working with others and will send out a message to local people that improving their well being is important to the Council.

4.1.5 By including a much wider partnership board the Council will be able to effectively explore other aspects of integration that include the opportunity to have a range of shared services, release efficiencies and create further opportunities for service transformation.

4.1.6 One of the core functions of the board is the shared duty of the Council and the Clinical Commissioning Group to encourage

integrated working between health and social care commissioners and to encourage arrangements under Section 75 of the NHS Act 2006. This duty would indicate that arrangements must support due diligence on behalf of the Council.

4.2 **Option 2**

4.2.1 By restricting the membership to statutory members there will be less people directly involved with the work of the board.

4.2.2 The council may have more direct control but it will be over a much narrower agenda which may have a limiting impact on addressing the wider social determinants of well being and thus limit our achievements to reduce inequalities.

4.2.3 Restricting the board to a statutory core membership may suggest a reluctance to work in partnership and may give rise to a perception by the public that our new duties for the public health agenda are not important to the council.

4.2.4 Restricting the board membership may reduce or delay the identification of further integration opportunities linked to shared services, service efficiencies and transformation opportunities.

4.2.5 Consideration would need to be given to how due diligence in respect of S75/S256 responsibilities would be addressed if the board had restricted core membership.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial Implications

There are no direct financial implications associated with this report. The work of the health and wellbeing board must be contained within current resources.

5.2 Staffing Implications

There appears to be minimal staffing impact in relation to the report. As referred to above the work of the health and wellbeing board must be contained within current resources including staffing.

5.3 Property and IT

There are no property or IT implications associated with this report.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 An integrated Impact Assessment has been carried out.

7. OUTCOMES OF CONSULTATION AND CONFLICT OF INTERESTS DECLARED

7.1 Extensive discussions have been held over the last year in relation to the work of the board particularly through the shadow board. Further consultation with these stakeholders to take account of the recently published regulations and guidance and a proposed updated Memorandum of Understanding has secured wider partnership agreement.

8. RECOMMENDATIONS

8.1 That cabinet recommends the formal establishment of the North Lincolnshire Health and Wellbeing Board as a committee of the council to discharge the statutory core functions from 1 April 2013 and agrees the membership of the Board as set out in Option 1 and Appendix 1 attached.

8.2 That the terms of reference and procedure rules for the Board be formally agreed by council following detailed consideration by the Health and Wellbeing Board taking account of the Memorandum of Understanding.

8.3 That any other necessary changes to the council's Constitution, Procedure Rules, Terms of Reference of the Health Scrutiny Panel and other related elements be considered at the Annual Meeting of the Council in May 2013.

DIRECTOR OF POLICY AND RESOURCES
AND DIRECTOR OF PEOPLE

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
MDH/LMK
Author: Mel Holmes/Susan Twemlow
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Background Papers used in the preparation of this report -
The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

Health and Wellbeing Boards - A Practical Guide to Governance and Constitutional Issues.

Appendix 1

STATUTORY/VOTING MEMBERS

One Councillor (nominated by the Leader of the Council)	
Chief Executive	North Lincolnshire Council
Director of People	North Lincolnshire Council
Director of Public Health	North Lincolnshire Council
Clinical Commissioning Group Representative	Chief Officer
Healthwatch Representative	Chief Executive

NON-STATUTORY REPRESENTATIVES

NHS Commissioning Board	Local Area Team Representative
Director of Places	North Lincolnshire Council
Director of Policy and Resources	North Lincolnshire Council
Voluntary and Community Sector	Chief Executive - CAB
Health Care Providers	Chief Executive - RDaSH Chief Executive/Director Level - NLAG
North Lincolnshire Homes	Chief Executive
Primary Phase Representative	Headteacher
Secondary Phase Representative	Headteacher
Further Education and Work Based Teams; Sector Representative	Principal, North Lindsey College
Humberside Police	Chief Superintendent
Humberside Probation	Director
Humberside Fire Authority	
Job Centre Plus	Operations Manager
Service Users (Adults and Young People)	Adult Lay Member Member of Youth Parliament Young Mayor