

<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>4 MARCH 2011</b>
<b>TITLE OF REPORT:</b>	<b>SHADOW HEALTH AND WELLBEING BOARD</b>
<b>PORTFOLIO AREA:</b>	<b>ADULT SOCIAL CARE, HEALTH AND WELLBEING</b>

**CLASSIFICATION:** Open

### **Wards Affected**

All Wards

### **Purpose**

To advise Members of the proposed requirement to establish a Health and Wellbeing Board (HWBB) and to progress the Council's status as an Early Implementer for the Department of Health (DoH) by creating a shadow board.

### **Key Decision**

This is not a Key Decision.

### **Recommendations**

#### **IT BE RECOMMENDED TO COUNCIL THAT:**

- (a) a Shadow Health and Wellbeing Board be created and chaired by a Cabinet Member;
- (b) the powers and duties of the Shadow Board shall be:
  - (i) for the purpose of advancing the health and wellbeing of the people in Herefordshire, to encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner; and
  - (ii) to provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services; and
  - (iii) to encourage persons who arrange for the provision of health-related services in Herefordshire to work closely with the Health and Wellbeing Board; and

- (iv) to encourage persons who arrange for the provision of any health or social care services in Herefordshire and persons who arrange for the provision of any health-related services in Herefordshire to work closely together; and
  - (v) to advise on how the functions of the Council and its partner commissioning consortia under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) are to be exercised; and
  - (vi) to give to the Council its opinion on whether the Council is discharging its duty under section 116B of the 2007 Act;
- (c) the membership of the Shadow Board shall include:
- those executive members of the Cabinet whose current areas of responsibility are encompassed by the powers and duties of the Shadow Board
  - the Chief Executive
  - those officers whose jobs include the roles of Director of Adult Social Services, Director of Children’s Services and Director of Public Health (as defined in clause 26 of the Health and Social Care Bill of 2011).
  - a representative of LINK (Local Improvement Network)
  - a representative of the Herefordshire Primary Care Trust
  - a representative of Hereford Hospitals Trust or (from 1st April 2011) the new Integrated Care Organisation for Herefordshire
  - a representative of the Herefordshire GP Consortium
  - a representative of the voluntary and community sector in Herefordshire
  - a representative of the business community in Herefordshire
- PROVIDED THAT** the Shadow Board may at its discretion include such further representatives as it shall determine;
- (d) the Shadow Board shall comply with the Standing Orders of Herefordshire Council in so far as executive members may make decisions at its meetings; and
  - (e) the Monitoring Officer report further on appropriate delegations and other constitutional requirements for a formal Health and Wellbeing Board once the Health and Social Care Bill has been enacted and the relevant implementation date is known.

## **Key Points Summary**

- The Council’s status as an Early Implementer of HWBBs requires a shadow board if we

are to meet our aspirations of early implementation and the DoH's timetable

- The Bill envisages that the HWBB will be set up by the Council and have certain statutory functions. The Bill specifies the membership that will be required. Currently these functions lie elsewhere – notably with the Cabinet and PCT – and the membership of the shadow board reflects this. It also reflects the fact that the proposed HealthWatch, which will have statutory membership of any formal HWBB in future has not yet been created: LINK will have membership of the shadow board instead at this stage.
- No new powers or delegations can be given to the shadow board at this stage. However, its terms of reference mirror those in the Bill and it has been structured in a way that allows executive members, directors, GP consortia and the PCT to act in concert to achieve similar outcomes.
- The Monitoring Officer will report back once the legal framework is more clear and a permanent board with appropriate powers can be created.

## **Alternative Options**

1. The purpose of the shadow board is to explore alternative ways of working to inform the creation of formal boards to be created in due course.

## **Reasons for Recommendations**

2. To fulfil the Council's aspirations for early implementation and obligations as an Early Implementer working with the DoH and as a statement of this Council's commitment to joint working to achieve outcomes in public health.

## **Introduction and Background**

### **Proposed Role of Health and Wellbeing Boards**

3. In December 2010, the Government published a document entitled "Legislative Framework and Next Steps", which sets out the response to the consultation responses to the July 2010 Health White Paper (including "Local Democratic Legitimacy in Health").
4. The key points relating to HWBBs are as follows:

#### **(1) Statutory Basis:**

- (a) The requirement for a HWBB has been included in the Health and Social Care Bill; the HWBB will be a statutory Committee of the Local Authority
- (b) Local Authorities (LAs) will be able to delegate other functions to the HWBB
- (c) GP Consortia (CPC) will be able to delegate inherited PCT functions to the LA or HWBB
- (d) There will be flexibility about geographical scope for HWBB, allowing cross border or more local variants
- (e) The HWBB will not be the commissioning body – LA and GPC will be responsible for commissioning

## **(2) Membership:**

- (a) The core membership requirements (in the Bill) will be:
  - Elected Councillors
  - Relevant GP Consortia
  - Directors for Adult Social Care, Children's Services and Public Health
  - Representative of HealthWatch
- (b) Other members will be for local determination

## **(3) Joint Strategic Needs Assessment (JSNA):**

- (a) Local Authority and GP Consortia (GPC) will be jointly responsible for the JSNA (and the Pharmaceutical Needs Assessment), working through the HWBB
- (b) There will be a legal obligation on the LA/GPC to have regard to the JSNA in exercising commissioning functions

## **(4) Joint Health and Well Being Strategy:**

- (a) There will be a requirement for the LA/GPC (working through the HWBB) to develop a high level Joint Health and Wellbeing Strategy having regard to the National Commissioning Board mandate (but no central approval will be required)
- (b) There will be a legal obligation on the LA/GPC to have regard to the Strategy in exercising commissioning functions

## **(5) Joint Working:**

- (a) HWBB will be able to look at the totality of resources in the local area for health and well being and how to achieve better value
- (b) There will be a statutory duty on GPC and LA to consider how best to use flexibilities (e.g. pooled budgets)

## **(6) Scrutiny:**

- (a) The Bill will confer health Overview and Scrutiny functions on the local authority itself – with greater flexibility to decide how these are exercised
- (b) Scrutiny powers will be extended to any provider (NHS funded) and to GPC functions

## **Early Implementers**

5. The DoH has established a network of Early Implementers for HWBBs, to work on a number of related policy issues. Early implementers will not have a special status, but will receive DoH support in return for co-producing guidance on HWBBs. The Early Implementer network will be informal and largely web based.
6. Herefordshire Council is an Early Implementer for HWBBs. This will provide the opportunity for both influencing the eventual Government guidance about HWBBs and to operate this element of the White Paper reforms in parallel with the development of the Herefordshire GP Consortium. The PCT Board and GPC will clearly be closely involved in this work as part of

the partnership between NHS and Herefordshire Council.

7. The DoH has run two workshops for Early Implementers and a further workshop is planned on 10 February 2011. In practice most of the learning and cross sector discussion will be virtual and will focus on particular areas of geographical or thematic interest.
8. Key points for the development of HWBBs from these sessions so far are as follows:
  - (1) Localities start from different points – HWBBs will need to be different in different areas
  - (2) National guidance should be advisory, not prescriptive
  - (3) HWBBs should focus on trying to achieve transformation, not simply fulfilling a requirement to have one
  - (4) How do we balance achieving change and at the same time keeping the best of the current system eg: knowledge and people?
  - (5) How do we build new relationships between local authorities and GPs?
  - (6) How can we ensure accountability and transparency under the new arrangements?
  - (7) How will HWBB and local partners manage cross boundary issues and locality working?

### **Developing Health and Wellbeing in Herefordshire**

9. It is clearly vital that we develop an approach to the HWBB which reflects the needs of Herefordshire, within the prescribed national framework. Establishing a shadow board will enable us to work through key questions such as:
  - (1) **Role of the HWBB:** in addition to the statutory requirements, what expectations should we have for the Herefordshire HWBB; what are the priorities and what are the challenges?
  - (2) **The JSNA:** will be the key planning document for the HWBB, leading to the development of the HWB Strategy. What should be the scope and purpose of the JSNA and how will it be different from now?
  - (3) **The HWB Strategy:** what will a HWB Strategy look like and what will it achieve?
  - (4) **Links with the Herefordshire Partnership:** the HWBB will be different from the Herefordshire Partnership Health and Wellbeing Partnership Board, but there will be a transitional aspect and the need for close links
  - (5) **Cross Border and Locality Working**
  - (6) **Pooling Budgets:** there are clear potential benefits to pooling commissioning budgets (alongside place based budgets) across the Council and the GPC:
  - (7) **Delivery:** there is little point in joining up needs analysis and planning if commissioning and delivery are not also joined up.
  - (8) **Public Accountability and Engagement:** there is a real opportunity to raise the profile of health and well being with Herefordshire residents, community groups, parish councils, local businesses etc and to get genuine engagement:

(A diagram setting out a high level view of a HWBB for Herefordshire is appended).

- 10 Stakeholder workshops will take place in February to work through these and other questions, linked to the reforms proposed in the Public Health White Paper.

## **Key Considerations**

11. Health and Wellbeing Boards (HWBB) will be established by local authorities as part of the Health White Paper proposals. The consultation document "*Local Democratic Legitimacy in Health*" proposed statutory responsibilities for HWBBs to lead Joint Strategic Needs Assessment (JSNA) and support joint commissioning and integration.
12. The proposal for HWBBs is closely linked to the transfer of public health responsibilities from 2013, which are set out in the Public Health White Paper published on 30 November 2010.

## **Community Impact**

13. The Health and Wellbeing agenda impacts on the entire community.

## **Financial Implications**

14. None specific to this proposal. Allocation of budgets to a formal board may be considered in due course. Existing budgets will be used in the work of the shadow HWBB.

## **Legal Implications**

15. The requirements for a Health and Wellbeing Board are contained in the recently published Health and Social Care Bill. The Shadow Board will draw on existing powers to explore ways of working which will inform the implementation of such boards nationally.

## **Risk Management**

16. Failure to set up a Shadow HWBB and fulfil the Council's ambitions as an Early Implementer could result in solutions being imposed which are not suited to Herefordshire.

## **Consultees**

17. There has been no specific consultation on this proposal. However, Early Implementers are developing the HWBB option as part of the Government's wider health proposals, which are subject to extensive consultation nationally. Stakeholder workshops will take place in February to develop thinking about the role of the HWBB. The PCT Board and GP Consortium will be central to this process.

## **Appendices**

- Diagrammatic representation of how a Health and Wellbeing Board might work.

## **Background Papers**

- Equity and Excellence – Liberating the NHS
- Local Democratic Legitimacy in Health
- Equity and Excellence – Legislative Framework and Next Steps