Division(s): N/A

OXFORDSHIRE HEALTH AND WELLBEING BOARD – 10 MAY 2018

Oxfordshire Health and Wellbeing Board Function and Governance Review: Proposal for Consideration and Decision by the Board

Report by the Chair and Vice-Chair Oxfordshire Health and Wellbeing Board

Introduction

1. This paper sets out our proposal for strengthening the Health and Wellbeing Board (HAWB). We have taken account of the views of Board members, a wide range of partners and the views expressed recently by the Care Quality Commission.

2. At the outset we want to express our view that these are unprecedented times of opportunity for improving the health of local people and so a review of the HAWB has never been so timely or so important. There is a clear consensus from everyone we talked to that organisations now need to work more closely together to create one vision and one plan for health and wellbeing in Oxfordshire. This aligns well with current national policy and we feel it is important to make a bold statement of our intent to press forward, using the HAWB as a vehicle for making a step-change in the way we work together for the people of Oxfordshire. The proposals set out below aim to do just that.

3. The paper covers the Board's functions and governance arrangements in 4 sections. In each section we have set out our proposals preceded by our rationale. Annex 1 sets out our initial brief and reprises the statutory role of HAWBs.

The Proposed Functions of the Health and Wellbeing Board

Chair and Vice-Chairs' Rationale and commentary following their engagement exercise.

4. We heard many views in favour of retaining the wide scope of the Health and Wellbeing Board (HAWB). There was a clear view that we now need a unifying vision and high-level strategy for health and wellbeing in Oxfordshire which all organisations will aim to follow. Achieving this vision is consistent with the duty of the HAWB to encourage those who provide health and social care services to work together in an integrated manner. This strategy will be broad and high-level but cannot also be detailed. We will inevitably need to have a number of more detailed strategies too, but these all need to stem from and deliver the overall HAWB strategy. This will enable residents to experience the seamless, joined-up care they deserve.

5. *A key function of the Board is to own this strategy, monitor its implementation and agree action to modify and update it. It is also important that the Board has more visibility. The organisations on the Board will hold one another to account for delivery. External scrutiny of delivery will be led by the Joint Health Overview and Scrutiny Committee.*

6. The HAWB must of course also carry out its own statutory duties, for example, the *production of a widely owned Joint Strategic Needs Assessment.*

7. *It is important that the HAWB can make decisions which stick. This is a difficult topic as the Board members belong to statutory organisations which must also fulfil statutory duties and make decisions. However, many of the chief officers of organisations do already carry significant decision-making authority, and, put alongside the statutory duties already held by the HAWB, these could give the HAWB considerable 'clout'. The point is to use the existing decision-making power of individual members in concert: to unite and not to divide. We believe this will enable us to take a huge step forward. This factor has guided our proposals for membership of the Board in section 3 below. In addition, as time goes on and confidence in the new arrangements grows, organisations are likely to delegate more decision-making powers to the Board.*

8. *We have considered many views about how to get a wide range of opinion into the Board, particularly from the public, interest groups and voluntary organisations.*

9. *We are proposing to establish a reference group for the HAWB. This will have wide membership and will include members of the Voluntary Sector and patient group representatives who all expressed a wish to be part of such a body. This body will meet six monthly and a wide range of topics will be discussed. The membership will be flexible depending on current topics of concern and may for example include care home representatives, social care providers and MPs depending on the topical issues under discussion. In addition, the reference group can propose topics for 'deep-dive' exercises. The HAWB will aim to approve two of these per year and agree how they will be taken forward depending on the topic. We anticipate that a wide range of speakers will be asked to collaborate in achieving an in-depth perspective of key topics which will inform the Board and its strategy.*

Our specific proposals therefore are:

1.1 The HAWB will create and own a single unifying vision for the improvement of the Health and Wellbeing of Oxfordshire residents.

1.2 The HAWB will create, own and monitor a comprehensive high-level health and wellbeing strategy for the improvement of the Health and Wellbeing of Oxfordshire residents.

1.3 The HAWB will agree a suite of strategies which will be created and owned by its sub-committees. These will flow from the overarching Joint Health and Wellbeing Strategy.

1.4 The HAWB will monitor the implementation of its strategy and the member organisations will hold one another to account for delivery. The Board will receive regular reports from its sub-committees based on outcome measures set by each.

1.5 The HAWB will fulfil its statutory duties. These currently include producing an authoritative Joint Strategic Needs Assessment and Pharmaceutical Needs Assessment, and approving plans for the Better Care Fund and the Improved Better Care Fund. The Board already has decision-making powers with respect to these.

1.6 Decision making will also take place through the collective delegated authority of the individual members.

1.7 The HAWB will establish a reference group with wide membership including the voluntary sector and patient group representatives. The membership will be flexible depending on current topics of concern. The reference group will discuss these key issues and may propose topics for HAWB 'deep-dive' exercises. The HAWB will aim to approve two of these per year and agree how they will be taken forward.

Sub-Committees

Chair and Vice-Chairs' Rationale following their engagement exercise.

10. *There was much support across the board in the engagement exercise for the existing sub-committee structure, and following the last HAWB, we feel we now have the right range of sub-committees to take forward a comprehensive HAWB strategy.*

11. *We encourage all the sub-committees to review their modi operandi to ensure they are directly taking forward the Joint Health and Wellbeing Strategy and are engaging widely with voluntary sector colleagues and representatives of the public.*

12. The HAWB will delegate the operational delivery of its strategy to the following sub-committees:
    1 The Children's Trust Board
    2 The Health Improvement Partnership Board
    3 The Adults with Support and Care Needs Joint Management Group
    4 The Better Care Fund Joint Management Group
    5 The Integrated System Delivery Board

13. This structure is likely to be subject to change over time as agreed by the Board. The three sub-committees covering adults' health and social care are, for example, currently in transition and we would anticipate a reduction in their number in due course.

14. The subcommittees' existing terms of reference will be retained.

Membership and Chairing of the Health and Wellbeing Board

Chair and Vice-Chairs' Rationale following their engagement exercise.

15. *In coming to this proposal, we have had to balance many factors and finally come to a firm proposal. The consensus view was that the HAWB membership should be as small as practically possible, and should contain members who already have key decision-making powers on behalf of organisations. The principles stated by the wide range of people we interviewed, supplemented by our own views, have shaped our proposals. The principles we have used are:*

- *We should propose people with the skills and experience to deliver the functions of the board.*
- *We need to keep membership to a minimum to facilitate manageable discussion and decision-making.*
- *We need to achieve a balanced membership and should not be County Council top-heavy.*
- *We should favour representatives who already have significant delegated authority so that these can be aligned. In practice this means proposing Chief Executive Officers as opposed to Chairs or non-executive members.*
- *We should respect the views expressed to us by the voluntary sector and patient group respondents by engaging them through a reference group or on specific issues rather than through permanent seats on the Board.*
- *We want to strengthen the clinical voice of primary care provision as this has been lacking in the past*
- *We should avoid duplication with the Oxfordshire Growth Board and the Oxfordshire Community Safety Partnership. This means that we wish to engage with the Police and Crime Commissioner and senior Thames Valley Police officers through membership or representation on sub-committees or through the reference group on an issue by issue basis.*
- *We need to retain representation from the two upper tiers of local Government.*
- *We must meet statutory duties and legal requirements regarding membership (See annex 1).*

16. *With regard to Chairing arrangements we heard no dissent from the current arrangements, therefore we propose:*

17. The Board will have the following membership:

Leader of the County Council – chair
Clinical Chair of Oxfordshire Clinical Commissioning Group - vice-chair
2 District and City Council representatives as per the current arrangements
A Cabinet Member of the County Council
Accountable Officer Oxfordshire Clinical Commissioning Group
C/E Oxford University Hospitals NHS Foundation Trust
C/E Oxford Health NHS Foundation Trust
C/E Oxfordshire County Council
A Healthwatch representative
The Director for Children's services
The Director for Adult Social Care

The Director of Public Health
An NHS England representative
1 Clinical General Practitioner provider representative from Oxfordshire's General Practice Federations.

Frequency and Location of Meetings

Chair and Vice-Chairs' Rationale following their engagement exercise.

18. *There was a general view that the meetings should be quarterly, held in public and not exclusively at County Hall. For practical purposes we propose to keep the meetings in Oxford.*

19. We propose quarterly meetings held in public, held alternately at Jubilee House and County Hall.

Recommendations

20. The Health and Wellbeing Board is asked to:

(a) endorse the proposed changes and authorise the Director of Public Health and the Director of Law & Governance, in consultation with the Chairman and Vice-Chairman of the Health & Wellbeing Board to amend the Terms of Reference as necessary for approval by Full Council; and

(b) to approve the revised membership to take effect at such time as the revised Terms of Reference are agreed at Council

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Chair Oxfordshire Health and Wellbeing Board

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Annex 1

Review of Oxfordshire's Health and Wellbeing Board:
Gathering Stakeholder Views

This briefing note sets out proposals for engaging with stakeholders to gather initial views which will be used to inform the review of Oxfordshire's Health and Wellbeing Board (HAWB) as agreed by the Board on 9/11/2017. A summary of the statutory role and duties of Health and Wellbeing Boards are appended for your reference.

The Board felt that it was timely to review the Board's role and governance arrangements for the following reasons:

1. The NHS's priority as stated in the 'Five Year Forward View' and subsequent documents is to move to Accountable Care Systems (ACS) and a number of these have been established. The Health and Wellbeing Board agreed to explore its role in the development of an ACS as part of this review.
2. The NHS has also moved to an emphasis on 'whole system working' as opposed to a clear-cut distinction between commissioners and providers. The previous governance model was based on this distinction and thus the Board's membership was based on service commissioners rather than on service providers. This therefore currently precludes the involvement of NHS trusts who are clearly integral to 'whole system working' and the involvement of the Voluntary Sector for example.
3. The Oxfordshire Transformation Board continues to work on practical issues of service transformation in the County and, although there is a strong synergy and an overlapping membership between it and the Health and Wellbeing Board, the Governance links between the two would benefit from clearer definition.
4. Over the years the Health and Wellbeing Board has received requests to expand its membership and the way it engages with a wide range of organisations. These have come from many sectors, including patient groups and advocacy groups, the voluntary and community sector, cultural and arts organisations, the police and the military. Our initial thinking was to avoid a Board which would be too large to be effective and so we decided to be guided by the statutory membership. It is now timely to review the membership of the Board again.
5. Since the Board met, we have also received verbal feedback from the Care Quality Commission regarding one aspect of the Board's work – that it should more actively oversee 'system flow' i.e. movement of people through primary care to hospital and through to discharge. This is likely to become a formal recommendation of the CQC and will be taken into account in the review.

It is therefore proposed that the Chair and Vice-chair of the Health and Wellbeing Board begin an engagement exercise early in the New Year by gathering the views of key stakeholders which will inform discussion at the next HAWB. This will take the shape of individual meetings and group events during early 2018, the detail of which will be advised in due course.

An Annex is provided for reference setting out the statutory duties of HAWBs.

The following questions will guide the review:

1. What should the functions of the HAWB be?
2. What should its role be in any emerging proposals to form an Accountable Care System?
3. How should the Board balance its role in coordinating a wide range of wellbeing issues with the specific needs to oversee 'system flow'?
4. How should it carry out these functions?
5. The HAWB is currently advisory rather than decision-making, is this sufficient?
6. What governance arrangements are needed to make this effective?
7. What powers should organisations delegate to the Board to make it effective?
8. What should its relationship be with bodies with a similar remit e.g. the Bucks Oxon Berks STP Executive and the Oxfordshire Transformation Board.
9. How should the public/ patient voice be engaged?
10. Should the current HAWB sub-groups be changed?
11. How should statutory organisations be represented and with what authority?
12. How should a potentially wide range of other organisations and stakeholders (e.g. the voluntary sector) be engaged?
13. What barriers might get in the way and how can they be removed?

The arrangements of other HAWBs elsewhere will also be analysed as part of the review.

Stakeholders to be contacted as part of this engagement exercise will include:

- Organisations currently represented on the Health and Wellbeing Board (Oxfordshire County Council, Oxfordshire Clinical Commissioning Group, NHS England, Healthwatch, District and City Council representatives)
- NHS Foundation Trusts
- NHS GP Federations
- Other providers of health and social care services
- Voluntary Sector Organisations
- Representatives of Patients' and Service Users' Groups

Next steps

We are planning to invite stakeholders to a series of informal discussions with us during February. Written views will also be welcome.

This will assist us in shaping the Terms of Reference for the review which will be presented to the Health and Wellbeing Board on 22nd March 2018

Annex. Health and Wellbeing Boards: Roles, Powers and Responsibilities

A. Purpose, powers and responsibilities - summary

The Health and Social Care Act 2012 established HWBs as statutory committees of all upper-tier local authorities to act as a forum for key leaders from the local health and care system to jointly work to:

- improve the health and wellbeing of the people in their area,
- reduce health inequalities, and
- promote the integration of services.

Local Government Association summarised the functions as follows:

The Health and Social Care Act 2012 gives health and wellbeing boards specific functions. These are a statutory minimum and further functions can be given to the boards 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 National Health Service Act 2006 (ie 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 services

- Any other functions that may be delegated by the council under section 196(2) of the Health and Social Care Act 2012. For example, this could include certain public health functions and / or functions relating to the joint commissioning of service and the operation of pooled budgets between the NHS and the council. Such delegated functions need not be confined to public health and social care. Where appropriate they could also, for example, include housing, planning, work on deprivation and poverty, leisure and cultural services, all of which have an impact on health, wellbeing and health inequalities.

B. The sections of the Health and Social Care Act 2012 gave the following detail regarding the establishment and membership of Health and Wellbeing Boards

S194 Establishment of Health and Wellbeing Boards

(1) A local authority must establish a Health and Wellbeing Board for its area.

(2) The Health and Wellbeing Board is to consist of—
(a) subject to subsection (4), at least one councillor of the local authority, nominated in accordance with subsection (3),
(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, and
(g) such other persons, or representatives of such other persons, as the local authority thinks appropriate.

(3) A nomination for the purposes of subsection (2)(a) must be made—
(a) in the case of a local authority operating executive arrangements, by the elected mayor or the executive leader of the local authority;
(b) in any other case, by the local authority.

(4) In the case of a local authority operating executive arrangements, the elected mayor or the executive leader of the local authority may, instead of or in addition to making a nomination under subsection (2)(a), be a member of the Board.

(5) The Local Healthwatch organisation for the area of the local authority must appoint one person to represent it on the Health and Wellbeing Board.

(6) A relevant clinical commissioning group must appoint a person to represent it on the Health and Wellbeing Board.

(7) A person may, with the agreement of the Health and Wellbeing Board, represent more than one clinical commissioning group on the Board.

(8) The Health and Wellbeing Board may appoint such additional persons to be members of the Board as it thinks appropriate.

(9) At any time after a Health and Wellbeing Board is established, a local authority must, before appointing another person to be a member of the Board under subsection (2)(g), consult the Health and Wellbeing Board.

(10) A relevant clinical commissioning group must co-operate with the Health and Wellbeing Board in the exercise of the functions of the Board.

(11) A Health and Wellbeing Board is 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.

(12) But regulations may provide that any enactment relating to a committee appointed under section 102 of that Act of 1972—

(a) does not apply in relation to a Health and Wellbeing Board, or
(b) applies in relation to it with such modifications as may be prescribed in the regulations.

C. Health and Social Care Act 2012 – duty to encourage integrated working

S195 Duty to encourage integrated working

(1) A Health and Wellbeing Board must, for the purpose of advancing the health and wellbeing of the people in its area, encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner.

(2) A Health and Wellbeing Board must, in particular, 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.

(3) A Health and Wellbeing Board may encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health and Wellbeing Board.

(4) A Health and Wellbeing Board may encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together.

(5) Any reference in this section to the area of a Health and Wellbeing Board is a reference to the area of the local authority that established it.

(6) In this section—

- "the health service" has the same meaning as in the National Health Service Act 2006;
- "health services" means services that are provided as part of the health service in England;
- "health-related services" means services that may have an effect on the health of individuals but are not health services or social care services;
- "social care services" means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970).

D. Health and Social Care Act 2012 – other functions of Health and Wellbeing Boards

S196 Other functions of Health and Wellbeing Boards

(1) The functions of a local authority and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") are to be exercised by the Health and Wellbeing Board established by the local authority.

(2) A local authority may arrange for a Health and Wellbeing Board established by it to exercise any functions that are exercisable by the authority.

(3) A Health and Wellbeing Board may give the local authority that established it its opinion on whether the authority is discharging its duty under section 116B of the 2007 Act.

(4) The power conferred by subsection (2) does not apply to the functions of the authority by virtue of section 244 of the National Health Service Act 2006.

E. Health and Social Care Act 2012 – <u>participation of NHS Commissioning Board</u>

S197 Participation of NHS Commissioning Board

(1) Subsection (2) applies where a Health and Wellbeing Board is (by virtue of section 196(1)) preparing—
(a) an assessment of relevant needs under section 116 of the Local Government and Public Involvement in Health Act 2007, or
(b) a strategy under section 116A of that Act.

(2) The National Health Service Commissioning Board must appoint a representative to join the Health and Wellbeing Board for the purpose of participating in its preparation of the assessment or (as the case may be) the strategy.

(3) Subsection (4) applies where a Health and Wellbeing Board is considering a matter that relates to the exercise or proposed exercise of the commissioning functions of the National Health Service Commissioning Board in relation to the area of the authority that established the Health and Wellbeing Board.

(4) If the Health and Wellbeing Board so requests, the National Health Service Commissioning Board must appoint a representative to join the Health and Wellbeing Board for the purpose of participating in its consideration of the matter.

(5) The person appointed under subsection (2) or (4) may, with the agreement of the Health and Wellbeing Board, be a person who is not a member or employee of the National Health Service Commissioning Board.

(6) In this section—
- "commissioning functions", in relation to the National Health Service Commissioning Board, means the functions of the Board in arranging for the provision of services as part of the health service in England;
- "the health service" has the same meaning as in the National Health Service Act 2006.

F. Health and Social Care Act 2012 – <u>discharge of functions of Health and Wellbeing Boards</u>

S198 Discharge of functions of Health and Wellbeing Boards

Two or more Health and Wellbeing Boards may make arrangements for—
(a) any of their functions to be exercisable jointly;
(b) any of their functions to be exercisable by a joint sub-committee of the Boards;
(c) a joint sub-committee of the Boards to advise them on any matter related to the exercise of their functions.

G. Health and Social Care Act 2012 – supply of information to Health and Wellbeing Boards

S199 Supply of information to Health and Wellbeing Boards

(1) A Health and Wellbeing Board may, for the purpose of enabling or assisting it to perform its functions, request any of the following persons to supply it with such information as may be specified in the request—
(a) the local authority that established the Health and Wellbeing Board;
(b) any person who is represented on the Health and Wellbeing Board by virtue of section 194(2)(e) to (g) or (8);
(c) any person who is a member of a Health and Wellbeing Board by virtue of section 194(2)(g) or (8) but is not acting as a representative.

(2) A person who is requested to supply information under subsection (1) must comply with the request.

(3) Information supplied to a Health and Wellbeing Board under this section may be used by the Board only for the purpose of enabling or assisting it to perform its functions.

(4) Information requested under subsection (1) must be information that relates to—
(a) a function of the person to whom the request is made, or
(b) a person in respect of whom a function is exercisable by that person

References:
House of Commons Library – Health and Wellbeing Boards
Local Government Association
Health and Social Care Act 2012