

HEALTH AND WELLBEING BOARD



TO:	Health and Wellbeing Board
FROM:	Abdul Razaq, Director of Public Health
DATE:	6 th December 2022

SUBJECT: Health and Wellbeing Board Guidance 2022 and Revised Terms of Reference

1. PURPOSE

The advent of Integrated Care Systems and the governance arrangements to support them have implications for the role and operation of Health and Wellbeing Boards. Non-statutory guidance for Health and Wellbeing Boards issued on 22nd November 2022 clarifies their purpose within the new system architecture and accompanies previously published statutory guidance for Health and Wellbeing Boards.

The purpose of this paper is to present a revised draft terms of reference for the Health and Wellbeing Board, incorporating changes arising from the recent guidance, for approval by the Board.

2. RECOMMENDATIONS FOR THE HEALTH & WELLBEING BOARD

- Note the updated (November 2022) guidance for Health and Wellbeing Boards and key changes arising from the guidance.
- Recommend the draft revised terms of reference of the Health and Wellbeing Board to Council in January 2023 for approval and incorporation in the Constitution.
- Note that the terms of reference be further reviewed in 12 months' time, and annually thereafter.

1. BACKGROUND

Role and Purpose of Health and Wellbeing Boards

The Health and Social Care Act 2012 required the establishment of a Health and Wellbeing Board (HWB) in every Upper Tier Local Authority in England, from April 2013. The purpose of establishing HWBs was to build strong and effective partnerships, which improve the commissioning and delivery of services across NHS and local government, leading to improved health and wellbeing for local people.

Health and wellbeing boards are a formal committee of the local authority. Under the 2012 Act, they have a statutory duty, to produce a joint strategic needs assessment (JSNA) and a joint health and wellbeing strategy (JHWS) for their local population.

The minimum membership required for a health and wellbeing board, as follows:

- A local elected representative
- A representative from the local Healthwatch
- A representative from each local clinical commissioning group (CCG)
- The local director of adult social services
- The local director of children's social services
- The local director of public health

HWBs can, at their discretion, invite other organisations to join the HWB to reflect local circumstances and priorities. In Blackburn with Darwen this includes wider elected member representation, along with representatives of the Voluntary Community and Faith Sector and East Lancashire Hospitals Trust.

Current Position

In April 2022 the Government passed the Health and Social Care Act 2022, which sets out how the NHS in England needs to change, working more closely with partners, particularly local authorities, to enable health and care to work more closely together. Under the Act, Integrated Care Systems (ICS) became statutory, charged with bringing the NHS, local authorities and other partners together to plan health and care services and focus on prevention.

As leaders of place, local authorities will have an essential role with the NHS to plan and deliver integrated care services, and can act on social, economic and environmental factors that influence people's health and wellbeing.

The advent of ICS and the governance arrangements to support them have implications for the role and operation of the HWB. Whilst the ICS statutory guidance confirms the continued role of the HWB in JSNA and JHWS, 'Thriving Places: guidance on the development of place-based partnerships as part of statutory integrated care systems' suggests the potential for significant overlap in the role and membership of the place-based ICS Board and the HWB.

A review of Place Based Partnership boundaries completed by the ICS in Summer 2022 confirmed the upper tier local authority footprint of Blackburn with Darwen as a place, within the Lancashire and South Cumbria ICS. Work is ongoing to establish structures for the ICS at system and place, which are summarised in Appendix 1, and a Director of Health and Social Care Integration for Blackburn with Darwen has been jointly appointed who will drive the delivery of integrated care and partnerships within place.

Non-statutory guidance published in November 2022 clarifies the purpose of HWBs within the new ICS system architecture, to align with the Health and Care Act 2022 and wider place based strategy, as summarised below.

2. KEY ISSUES

Health and Wellbeing Board Guidance (published 22nd November 2022) [Health and wellbeing boards – guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/health-and-wellbeing-boards-guidance)

The key issues and changes to HWBs set out in the recent guidance are summarised below.

Role and purpose:

HWBs remain a formal statutory committee of the local authority, and will continue to provide a forum where political, clinical, professional and community leaders from across the health and care system come together.

Health and Wellbeing Boards will continue to:

- Provide a strong focus on establishing a sense of place
- Instil a mechanism for joint working and improving wellbeing of their local population
- Set local strategic direction to improve health and wellbeing
- Exist as set out in the Health and Social Care Act 2012, and include a representative of the Integrated Care Board (ICB)
- Have responsibility for assessing the health and wellbeing needs of the area and publishing a JSNA, Pharmaceutical Needs Assessment (PNA) and the JHWS, which should directly

inform the development of joint commissioning arrangements in the local area, and the co-ordination of NHS and local authority commissioning, including Better Care Fund plans.

The guidance accompanies previously published statutory guidance on JSNAs and JHWS, however, the Health and Care Act 2022 amends section 116A of the Local Government and Public Involvement in Health Act 2007, renaming 'joint health and wellbeing strategies' to 'joint local health and wellbeing strategies'. Other statutory guidance on JSNAs and JHWS remains unchanged.

Membership:

Following the Health and Care Act 2022, clinical commissioning groups (CCGs) were abolished with effect from 1 July 2022 and ICBs took on their commissioning functions. The core statutory membership of HWBs is unchanged other than requiring a representative from ICBs, rather than CCGs.

HWBs can continue, at their discretion, to invite other organisations to join the HWB.

HWBs are advised to review their membership following the establishment of ICBs and ICPs and their associated functions and duties. Any changes should reflect local circumstances and priorities and continue to meet the statutory requirements.

NHS England must also, in exercising any functions in arranging for the provision of health services in relation to the area of a responsible local authority, have regard to the relevant JSNAs and JLHWSs

HWBs and ICBs:

HWBs will continue the relationships they had with CCGs with ICBs. This includes joint forward plans (replacing commissioning plans), annual reports and performance assessments.

Joint forward plans

Before the start of each financial year, an ICB, with its partner NHS trusts and NHS foundation trusts, must prepare a 5-year joint forward plan, to be refreshed each year. ICBs must involve HWBs as follows:

- Joint forward plans for the ICB and its partner NHS trusts and NHS foundation trusts must set out any steps that the ICB proposes to take to implement any JLHWS
- ICBs and their partner NHS trusts and NHS foundation trusts must involve each relevant HWB in preparing or revising their forward plan
- In particular, the HWB must be provided with a draft of the forward plan, and the ICB must consult with the HWB on whether the draft takes proper account of each relevant JLHWS
- Following consultation, any HWB within the ICB's area has the right to respond to the ICB and may give its opinion to NHS England
- Within the ICB's forward plan, it must include a statement from the HWB as to whether the JLHWS has been taken proper account of within the forward plan
- With the establishment of ICBs and the abolishment of CCGs, the former requirement for CCGs to share their commissioning plans with HWBs is now removed

Annual reports

ICBs are required as part of their annual reports to review any steps they have taken to implement

any JLHWS to which they are required to have regard. In preparing this review, the ICB must consult the HWB.

Performance assessments

In undertaking its annual performance assessment of an ICB, NHS England will include an assessment of how well the ICB has met the duty to have regard to the relevant JSNAs and JLHWSs within its area. In conducting the assessment, NHS England will consult each relevant HWB for their views on the ICB's contribution to the delivery of any JLHWS to which it was required to have regard.

Proposed changes

Revised Terms of Reference and membership of the board, reflecting the above changes, are included in Appendix 2, which the Board is asked to note and recommend for approval. The key changes are highlighted below.

Role and purpose

The role and purpose of the HWB in informing and assuring ICS plans including joint forward plans (replacing commissioning plans), annual reports and performance assessment has been incorporated.

Membership

The core statutory membership of HWBs remains unchanged,

ICB representatives will replace CCG representatives, this includes a member of the ICB Board and the joint Director of Health and Social Care Integration for Blackburn with Darwen.

A place based clinical representative will be invited, through nomination, to join the Board to strengthen local integrated working.

The additional representation of wider elected members, the Voluntary Community and Faith Sector (VCFS) and East Lancashire Hospitals Trust will continue. The nomination or re-nomination of VCFS representatives will be sought through local VCFS networks.

Roles and responsibilities of Board Members

The following roles and responsibilities of Board members have been added;

Members of the Board are asked to commit to the following principles in developing their relationships with other parts of the system;

- Building from the bottom up
- Following the principles of subsidiarity
- Having clear governance, with clarity at all times on which statutory duties are being discharged
- Ensuring that leadership is collaborative
- Avoiding duplication of existing governance mechanisms
- Being led by a focus on population health and health inequalities

Approval of proposed changes

HWB Terms of Reference require approval by Council, and it is proposed that the revised Terms of Reference be submitted to Council in January 2023 for incorporation into the Constitution, subject to any final amendments.

Timeline for review

Local arrangements continue to evolve. Over the next 12 months the role of the HWB and arrangements for how it will work together with the Blackburn with Darwen Place Based Partnership will develop.

In recognition of this dynamic picture, and on the grounds of good governance, it is proposed that the Health and Wellbeing Board review the terms of reference in 12 months' time, and on an annual basis thereafter.

3. POLICY IMPLICATIONS

Joint Health and Well Being Strategies have been renamed Joint Local Health and Well Being Strategies (JLHWS) and remain a key responsibility of the HWB. The JLHWS will be a key document identifying partnership outcomes and informing priorities to address the health needs of people living in Blackburn with Darwen. The proposals set out in this paper will assist the HWB in progressing the JLHWS, which along with the JSNA, will be used by the Lancashire and South Cumbria ICP to develop the Integrated Care Strategy.

4. FINANCIAL IMPLICATIONS

There are no additional financial implications arising for the Council as a result of the changes documented in this report.

8. LEGAL IMPLICATIONS

Health and Wellbeing Boards are established under section 194 of the Health and Social Care Act 2012. They are committees of the Council under section 102 of the Local Government Act 1972. The statutory membership is provided for in section 194(2) of the Act. The Board is able to appoint sub-committees and may appoint additional persons to the Board.

The Health and Social Care Act 2012 details two core functions of Health & Wellbeing Board:

- prepare as assessment of relevant needs, through the Joint Strategic Needs Assessments (JSNA),
- prepare a strategy for meeting those needs, through the Joint Health and Wellbeing Strategies (JHWS)

The Board also has a duty to promote integration and involve the public. Other specific powers and responsibilities of the Board includes a duty to provide opinion as to whether local commissioning plans has take proper account of the JHWS, The proposals set out in this paper will assist the Board in delivering these responsibilities under the Act.

The Health and Care Act 2022, which received Royal Assent and became an Act of Parliament on 28 April 2022. The Act seeks to enable greater integration between partners across the health (which includes physical and mental health) and social care sector. Section 26 of the Act makes provision for Integrated Care Partnerships and amends the Local Government and Public

Involvement in Health Act 2007 so that the integrated care board and all upper-tier local authorities that fall within the area of the integrated care board must establish an integrated care partnership. This creates a joint committee of these bodies made under the new section inserted in the Act. The partnership must include members appointed by the integrated care board and each relevant local authority. The integrated care partnership may determine its own procedures and appoint other members.

It is a legal requirement that the Council's Constitution is kept up to date, and any changes to it (apart from amendments to comply with the law) requires approval of the Council.

9. RESOURCE IMPLICATIONS

The principle resource implications of this paper is the time of officers from those constituent organisations of the Board to support the implementation of the recommendations.

10. EQUALITY AND HEALTH IMPLICATIONS

The Health and Wellbeing Board will continue to have a fundamental role in the improvement of health and wellbeing for the residents of Blackburn with Darwen. The revised terms of reference will place an increased focus on population health and inequalities supported by JSNA and JLHWS. This will support a more joined up approach to planning and delivering health and wellbeing services to local communities.

11. CONSULTATIONS

The Department of Health and Social care consulted with all sectors in the development of the recent guidance to HWBs.

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DATE:	19/11/22
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BACKGROUND PAPER:	Health and Wellbeing Boards - guidance, DHSC, 22 nd November 2022 Health and wellbeing boards – guidance - GOV.UK (www.gov.uk)
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