



Although a formal committee of Brighton & Hove City Council, the Health & Wellbeing Board has a remit which includes matters relating to the Clinical Commissioning Group (CCG), the Local Safeguarding Board for Children and Adults and Healthwatch.

Title: Review of
the Health &
Wellbeing Board

Date of Meeting: 08 September 2020

Report of: The
Executive Director,
Health & Social
Care

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Wards Affected: All

FOR GENERAL RELEASE

Executive Summary

This report outlines proposals to improve the effectiveness of the Health & Wellbeing Board (HWB). These proposals have been developed by BHCC officers, building on the 2019 Local Government Association (LGA) facilitated review of the HWB.

The intention is to further develop these proposals through consultation with city partners, stakeholders and local residents. This will include public consultation via the Council's online Consultation Portal. Feedback from the consultation process will inform a revised proposal which will be presented to a future HWB meeting for agreement.



If approved by the Board, the proposed changes to the HWB membership and Terms of Reference will require amendment of the Council's Constitution, so will need to be considered by Policy & Resources Committee and by Full Council.

Insofar as the proposed changes impact on partner organisations, they may also need to go through those organisations' governance processes.

1. Decisions, recommendations and any options

- 1.1 That the Board notes the proposals to enhance the effectiveness of the HWB (detailed in section 2 of this report); and
- 1.2 Approves plans to further refine these proposals through engagement with partners, stakeholders and local residents, including online public consultation.
- 1.3 Requests officers to bring a report back to the March 2021 Board meeting (or earlier if possible) with the outcome of the consultation and engagement and with proposed recommendations for the Board to make to Policy & Resources Committee and full Council.

2. Relevant information

- 2.1 The Health & Social Care Act (2012) required all local authorities with social care responsibilities to establish Health & Wellbeing Boards (HWB). The 2012 Act (and subsequent Regulations) set out a statutory framework for HWBs, including a minimum membership and statutory duties. However, local authorities were given considerable freedom to develop locally appropriate HWB models with additional membership and duties. In consequence, a number of different HWB models evolved.
- 2.2 The context in which HWBs operate has also changed over time, particularly in terms of the NHS moving from an internal market model with a clear commissioner/provider split to the current model of increasingly strong partnership working between NHS commissioners, NHS providers, local authorities and the Community & Voluntary sector (CVS). This significant shift in focus provides another reason to review the Brighton & Hove HWB.
- 2.3 Furthermore, concerns have been voiced by BHCC members about there being a lack of member oversight for the BHCC social care and public health

decisions that were transferred to the Board when it was first established. Some Members consider that these decisions would be better made by BHCC members alone.

2.4 In 2019, the Local Government Association (LGA) agreed to facilitate a review of the Brighton & Hove HWB. Initial work on this, involving all HWB partners and a wide range of stakeholders, took place in autumn 2019. However, the impact of the Covid crisis meant that it was not possible to complete this review as intended. Instead, a set of proposals has been developed, building on the early findings of the review.

2.6 Role and Responsibilities of the HWB

The role of the HWB is currently defined in the BHCC Constitution:

The purpose of the Board is to provide system leadership to the health and local authority functions relating to health & wellbeing in Brighton & Hove. It promotes the health and wellbeing of the people in its area through the development of improved and integrated health and social care services. The Health and Wellbeing Board is responsible for the co-ordinated delivery of services across adult social care, children's services and public health. This includes decision making in relation to Adult Services, Children's Services, and decisions relating to the joint commissioning of children's and adult social care and health services.

HWBs have a set of statutory responsibilities. These are detailed in the BHCC Constitution, but in brief they include:

- Agreeing and overseeing the implementation of a local Joint Health & Wellbeing Strategy (JHWS) – and ensuring that CCG commissioning plans support the JHWS goals.
- Agreeing the local Joint Strategic Needs Assessment (JSNA) – and ensuring that organisational commissioning decisions reflect the JSNA evidence base.
- Agreeing the local Pharmaceutical Needs Assessment.
- Receiving annual Safeguarding Adult and Children Board reports.
- Agreeing the local Better Care Fund (BCF) plan.

The current HWB Terms of Reference need to be updated to reflect recent major recent developments in health and care. It is proposed that Board's scope is expanded to include:

- **Leadership of health & care recovery/system responses to the Covid emergency.**
- **Oversight of local Covid Outbreak Control Planning, including acting as the Local Engagement Group for local outbreak communications.**
- **Working in partnership with the Sussex Integrated Care System and the Brighton & Hove Integrated Care Partnership to deliver the NHS Long Term Plan via the Sussex and Brighton & Hove Health & Care Plans.**

To make the Board more effective, and to better align it with best practice across England, two other major changes to the Terms of Reference have been identified:

- (i) to broaden the currently rather narrow (and commissioner-heavy) membership; and
- (ii) to address the issue of much of the Board's time being taken up with relatively operational commissioning decisions. Most high-functioning HWBs have a broad membership, including health providers and the community and voluntary sector; and few HWBs undertake routine commissioning decisions.

The issues of membership and commissioning are addressed in more detail below.

2.7 Membership

2.7.1 The current membership of the HWB is:

- BHCC elected members (including HWB Chair): 5 (voting, with the Chair having a casting vote in the event of a tied vote)
- CCG representatives: 5 (voting)
- BHCC Executive Director of Children's Services (non-voting)
- BHCC Executive Director of Health & Adult Social Care (non-voting)
- Brighton & Hove Director of Public Health (non-voting)
- NHS England representative (non-voting)
- Healthwatch Brighton & Hove representative (non-voting)

(The above are all required by statute, although the minimum legal requirement is for at least one elected member and at least one member of any CCG operating within the local authority area.)

- Chair of the local Safeguarding Adults Board (SAB) (non-voting)
- Representative of the Brighton & Hove Safeguarding Children's Partnership (non-voting)

(These are not required in statute.)

2.7.2 The proposed new HWB membership is (changes in bold):

- BHCC elected members (including HWB Chair): 5 (voting, with the Chair having a casting vote in the event of a tied vote)
- CCG representatives: **2** (voting)
- **Chief Executive of Brighton & Sussex University Hospitals Trust (BSUH) (voting)**
- **Chief Executive of Sussex Partnership NHS Foundation Trust (SPFT) (voting)**
- **Chief Executive of Sussex Community NHS Foundation Trust (SCFT) (voting)**

- **Community Voluntary Sector (CVS) representative (non-voting)**
- BHCC Executive Director of Children’s Services (non-voting)
- BHCC Executive Director of Health & Adult Social Care (non-voting)
- Brighton & Hove Director of Public Health (non-voting)
- NHS England representative (non-voting)
- Healthwatch Brighton & Hove representative (non-voting)
- Chair of the local Safeguarding Adults Board (SAB) (non-voting)
- Representative of the Brighton & Hove Safeguarding Children’s Partnership (non-voting)

2.7.3 The proposal to offer seats to NHS Trusts operating in the city will ensure that the HWB represents the entirety of the local health & care system rather than solely commissioners. This will better reflect the increasing trend for partnership working between health and care commissioners and providers across the local system. The CCG has offered to give up three of its voting seats on the Board, with the votes passed to NHS Trusts. This means that the membership and voting balance between BHCC and the NHS on the Board is maintained despite the addition of NHS Trusts.

2.7.4 The proposal to offer a seat to CVS reflects the importance of the sector locally, both as providers of health and care services and as champions for particular groups, including disadvantaged communities. Community Works will be asked to nominate the CVS representative, but the representative will be expected to represent the views of the sector as a whole. This will be a non-voting seat as having it as voting would upset the voting balance on the Board. However, it is anticipated that the Board will make all or the great majority of decisions by consensus, with the full participation of all members, rather than by voting.

2.7.5 The above proposals will considerably widen the membership of the Board, but with only a minimal increase in members (one). Consideration was given to further widening Board membership (e.g. to include invites to Fire & Rescue and/or the Police/Police & Crime Commissioner). However, the benefits of having different perspectives reflected on the Board need to be balanced against the risks of having too large a membership for effective meetings. The Board will seek to engage with a wider range of stakeholders on specific work-streams.

2.8 Sub-Committees

2.8.1 The HWB currently discharges its statutory functions, but also takes decisions on jointly commissioned (BHCC/CCG) services and on BHCC social care and public health matters. This inevitably means that much of the HWB’s activity is focused on relatively operational commissioning matters rather than strategic issues. There is also an argument that this arrangement means that BHCC elected member oversight of council social care services is weaker than oversight of other council services undertaken by BHCC Policy Committees.

2.8.2 It is consequently proposed to establish a BHCC-only social care sub-committee that will take all BHCC decisions relating to social care and public health that were previously taken by the HWB (some decisions are reserved for Policy & Resources committee due to corporate policy or budgetary considerations). Although the HWB is legally constituted as a Council committee, it, and any sub-committees it has, are not subject to proportionality rules. It is nonetheless proposed that seats on the sub-committee do reflect the composition of the Council.

2.8.3 In addition to making BHCC decisions, the Board also makes joint BHCC/CCG commissioning decisions. This also risks compromising the Board's ability to focus on strategic matters. It is therefore proposed to establish an additional joint commissioning sub-committee comprising BHCC and CCG members. The joint commissioning sub-committee will take decisions relating to jointly-commissioned services.

2.8.4 It is proposed that the two sub-committee meetings be scheduled consecutively (i.e. one following the other on the same date). This will minimise the demand on member time and on administrative resources.

2.9 Children's Services and Corporate Parenting Board

The HWB currently has responsibility for BHCC children's care decisions, held concurrently with the Children, Young People & Skills Committee (CYPS). The HWB also currently has the function of discharging the Council's responsibilities as Corporate Parent. It is proposed to clarify that these decisions will be taken by CYPS Committee by amending the HWB Terms of Reference accordingly. However, the HWB and its sub-committees will retain all public health decision-making, including for children & young people public health services.

2.10 Frequency of Meetings

There are currently six HWB meetings per annum. It is proposed that we move to three HWB meetings plus three consecutive meetings of the social care and joint commissioning sub-committees. Thus, there will be no increase in terms of the burden of meetings, but also no reduction in the number of opportunities for public or member involvement. In addition, we will schedule informal 'workshop' HWB sessions as required – e.g. to develop strategies etc.

2.11 Health Overview & Scrutiny Committee (HOSC) and Performance & Information Group (PIG)

Every upper-tier local authority is required to have a **Health Overview & Scrutiny Committee (HOSC)** to scrutinise local NHS-funded services. HOSCs have statutory powers to examine the general running of local NHS services (e.g. to look at performance and quality data) and specific powers and duties to act as a formal consultee when NHS bodies are planning substantial service changes. (Council public health services also fall within this statutory remit.) Brighton & Hove HOSC

has additional powers under the Council's Constitution to scrutinise BHCC adult and children's care services (but this is not a statutory role).

HOSC and HWB roles are distinct: HWBs are the local health & care system leaders, developing high-level plans (e.g. the local Joint Health & Wellbeing Strategy) which inform the commissioning and delivery of health and care services. HWBs may also directly commission some services. HOSCs scrutinise services, with a specific role to ensure that NHS service change plans are not detrimental to the health needs of local residents.

Government guidance encourages HWBs and HOSCs to work together, although they must not share members.

The **Performance Information Group (PIG)** is a BHCC Member Working Group that brings together HWB and HOSC members in informal meetings to examine system performance data and to agree approaches to specific issues.

The HWB review proposals do not include plans to change the functions of the HOSC, although there is a general commitment to use the Performance Information Group to better coordinate the work of the two bodies.

2.12 Partnerships

Brighton & Hove Connected (BHC) is the local strategic partnership, bringing together a range of public, private and community sector bodies to share information and to jointly develop strategic thinking. BHC has a number of thematic partnerships undertaking this work, and the designated partnership for health and care is the HWB. However, the HWB does not actively fulfil this role at the current time. In part this is because the HWBs current membership does not reflect the local health and care system as a whole. With NHS providers and CVS on the Board, the HWB will be much better positioned to act as a thematic partnership. This would include taking responsibility for oversight of key citywide risks relating to health and care (these risks are currently overseen by City Management Board).

2.13 Review Timeline

We plan to consult on these proposals with current HWB partners, BHCC political groups and key city partner organisations, including the local Community & Voluntary sector. We will also consult with local residents via the BHCC Consultation Portal: the proposals and a questionnaire will be posted on the portal.

We will use feedback from partner and public consultation to revise the proposals and will present an amended review plan to a future meeting of the HWB.

Assuming it is approved by the Board, the planned changes to the HWB membership and Terms of Reference will need to be considered by the following BHCC bodies: Constitutional Working Group (CWG), Policy & Resources Committee (P&R) and Full Council.



These proposals will also need to go through CCG governance. They may also need to go through other organisations' governance processes: e.g. NHS Trusts.

The draft proposals will also be shared with the LGA for comment.

To allow for as much public input as possible the online consultation will run for 60 days – from September to November 2020. This means that revised review proposals, incorporating consultation feedback, will be presented to the January 2021 HWB and subsequently to BHCC Policy & Resources Committee/Full Council and to CCG (and potentially other NHS bodies') governance. Assuming that all the above bodies are happy with the changes proposed, the new arrangements should apply from the June 2021 HWB meeting.

2.14 Consultation

The HWB review proposals draw on LGA-facilitated engagement with a wide range of partners and stakeholders, including BHCC directorates, the CCG, Healthwatch, NHS providers, the police, Fire & Rescue, CVS organisations and local business bodies. The specific proposals contained in this report have been shared with the CCG, local NHS Trusts, Healthwatch, Community Works and the LGA. There will be further consultation on these proposals with key city partners and BHCC political groups. There will also be online public consultation.

2.15 Review

These arrangements will be reviewed after 12 months in operation and will be further amended if necessary.

3. Important considerations and implications

Legal:

- 3.1 The proposals for the broadening of the Board's membership to other bodies and the establishment of sub-committees to make operational decisions enhances the democratic decision-making process. This is because the democratically elected members of the Council will have greater influence in the process. The wider base of participants within the Board's membership should provide a better opportunity to reflect the interests of the Brighton and Hove population.

Lawyer consulted: Nicole Mouton

Date: 26/8/20



Finance:

- 3.2 There are no direct financial implications arising from the recommendations in this report.

Finance Officer consulted: Sophie Warburton Date: 27/08/2020

Equalities:

- 3.3 Current HWB membership provides a route for the concerns of protected groups to be raised via Healthwatch Brighton & Hove. The proposed additional CVS seat will increase the opportunity for these voices to be heard as the CVS representative will be expected to express concerns from across the sector, including from those CVS organisations that represent and lobby for the interests of people from BAME communities, older people, people with disabilities etc.

Sustainability:

- 3.4 There are no direct sustainability implications arising from the recommendations in this report. However, achieving ambitious local and national carbon reduction goals will require a radical re-thinking of how services, including health & care services, are commissioned and delivered in the future. As the local health & care system leader, the HWB will have an important role to play in influencing service planning in this context.

Health, social care, children's services and public health:

- 3.5 These are dealt with in the body of the report.

Supporting documents and information

None

