
**Manchester City Council
Report for Resolution**

Report to: Constitutional and Nomination Committee – 27 March 2013
Council – 27 March 2013

Subject: Establishment of Health and Wellbeing Board and Consequential
Changes to the Constitution

Report of: The City Solicitor

Summary

The purpose of this report is to establish a Health and Wellbeing Board pursuant to the Health and Social Care Act 2012, to make consequential changes to the Constitution of the Council and to make delegations to the Director of Public Health.

Recommendations

The Council is recommended:

1. To establish a Health and Wellbeing Board pursuant to section 194 of the Health and Social Care Act 2012 with the terms of reference set out in Appendix 1.
 2. To agree the changes to the Constitution of the Council set out in Appendix 2.
 3. To approve the delegations to the Director of Public Health sent out in Appendix 3.
 4. To agree or confirm, as appropriate, the membership of the Health and Wellbeing Board.
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Financial Consequences for Revenue Budget:

None directly

Financial Consequences for Capital Budget:

None

Wards affected:

All

Implications for:

Anti poverty	Equal Opportunities	Environment	Employment
Yes indirectly	Yes indirectly	No	Yes indirectly

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Background documents:

Report of the Governance and Scrutiny Support Unit to the Shadow Health and Wellbeing Board on 20 March 2013 "Health and Wellbeing Board – Governance and Constitutional Issues".

1. Background – Transfer of Public Health functions to the Council

1.1 From the 1 April 2013, as a result of the coming into force of section 12 of the Health and Social Care Act 2012 (“HSCA”), the Council will become responsible for taking “such steps as it considers appropriate for improving the health of the people in its area”, including

- Providing information and advice;
- Providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
- Providing services or facilities for the prevention, diagnosis or treatment of illness;
- Providing financial incentives to encourage individuals to adopt healthier lifestyles;
- Providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
- Providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
- Making available the services of any person or any facilities; and
- Providing grants or loans on such terms as the Council considers appropriate.

In addition to this general duty in relation to the improvement of public health, the HSCA requires the Council to discharge a number of “mandatory” public health functions, including

- Functions in relation to public dental health (pursuant to Part 4 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012;
- Functions in relation to weighing and measuring of children (pursuant to Regulation 3 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (“the Public Health Functions Regulations”);
- Functions in relation to health check assessments for persons aged between 40 to 74 years (pursuant to Regulation 4 and 5 of the Public Health Functions Regulations);
- Functions in relation to the provision of sexual health services (pursuant to Regulation 6 of the Public Health Functions Regulations).

2. Requirement for Council to establish a Health and Wellbeing Board

2.1 From the 1 April 2013, as a result of the coming into force of section 194 of the HSCA, the Council will be required to establish a Health and Wellbeing Board for its area.

2.2 Pursuant to section 194(2) of the HSCA, the Council’s Health and Wellbeing Board must consist of –

- (a) at least one elected Member of the Council, nominated by the Leader of the Council. (Where a local authority operates executive arrangements,

- as in Manchester, the Leader of the Council may, be a member of the Board instead of or in addition to making a nomination(s) to the Board);
- (b) the Council's Director of Adult Social Services;
 - (c) the Council's Director of Children's Services;
 - (d) the Council's Director of Public Health;
 - (e) a representative appointed by the Local Healthwatch organisation for the Council's area;
 - (f) a representative appointed by each relevant Clinical Commissioning Group (CCG) (i.e. North Manchester, CCG, Central Manchester CCG; and South Manchester CCG);
 - (g) a representative appointed by the NHS Commissioning Board
 - (h) any other members considered appropriate by the Council (but the Health and Wellbeing Board must be consulted if members are added after the Board has been established).
 - (i) any other additional members, appointed by the Health and Wellbeing Board itself, as the Board considers appropriate.
- 2.3 The Council is asked to agree or confirm, as appropriate, the membership of the Health and Wellbeing Board. It should be noted that the rules on political balance do not apply in relation to councillor representation on the Board.
- 2.4 The HSCA requires the Council's Health and Wellbeing Board to discharge a number of core statutory functions, and these are set out at paragraphs 1 to 5 of the draft delegations to the Board that are set out at Appendix 1.
- 2.5 In addition, the HSCA allows the Council to arrange for the Health and Wellbeing Board to exercise any of the local authority's functions (with the exception of the Council's health scrutiny functions pursuant to section 244 of the National Health Service Act 2006). Paragraph 6 of the draft delegations to the Board therefore allows the Board to discharge such of the Council's non-executive functions as may be delegated to the Board by the Council, and such of the Council's executive functions as may be delegated to the Board by the Leader of the Council.
- 2.6 Pursuant to section 194(11) of the HSCA, the Council's Health and Wellbeing Board is a Committee of the Council and is to be treated as if it were a Committee appointed by the Council under section 102 of the Local Government Act 1972. The requirement for the Council to establish a Health and Wellbeing Board means that Article 8 of the Council's Constitution, which deals with "Regulatory and other Committees" will need to be amended. In addition, Rule 5 of the Council Procedure Rules, which deals with "Establishment of Committees and Sub-Committees" will require amendment to include reference to the Health and Wellbeing Board. The proposed amendments to these parts of the Council's Constitution are set out at Appendix 2.
- 2.7 All members of the Health and Wellbeing Board (including officers and other non-councillors) are entitled to vote unless the Council decides to restrict the voting rights for some Board members. Such restrictions can only be agreed after consultation with the Health and Wellbeing Board.

3. The Director of Public Health

- 3.1 The Council must, acting jointly with the Secretary of State, appoint a Director of Public Health. Section 30 of the HSCA provides that the Council's Director of Public Health is to have responsibility for the discharge of a number of the Council's statutory functions in relation to public health.
- 3.2 The proposed delegations to the Council's Director of Public Health set out at Appendix 3 include the discharge of the statutory functions that the Director of Public Health is required to discharge pursuant to section 30 of the HSCA, together with a number of public health functions that the Council is required to discharge under existing legislation.

4. Recommendations

- 4.1 The recommendations appear at the front of this report.

Appendix 1

Draft Terms of Reference of the Health and Wellbeing Board (to be inserted at Part 3 of the Council's Constitution)

1. To encourage, for the purpose of advancing the health and wellbeing of people in Manchester, persons who arrange for the provision of any health or school care services in Manchester to work in an integrated manner.
2. To provide such advice, assistance or other support as appropriate for the purpose of encouraging partnership arrangements under section 75 of the National Health Service Act 2006 between the Council and NHS bodies in connection with the provision of health and social care services.
3. To encourage persons who arrange for the provision of health-related services (i.e. services which are not health or social care services but which may have an effect on the health of individuals) to work closely with the Board and with persons providing health and social care services.
4. To exercise the functions of the Council and its partner Clinical Commissioning Groups in preparing a joint strategic needs assessment under section 116 of the Local Government and Public Involvement in Health Act 2007 and a joint health and wellbeing strategy under section 116A of that Act.
5. To give the Council the opinion of the Board on whether the Council is discharging its duty to have regard to the joint strategic needs assessment and joint health and wellbeing strategy in discharging the Council's functions
6. To exercise such other Council functions which are delegated to the Board by the Council or the Leader.
7. To appoint such sub-committees or joint sub-committees as the Board considers appropriate.

APPENDIX 2

(Proposed amendments to Part 2, Article 8, and Part 4, Section A, Rule 5 of the Council's Constitution. Additions to current Constitution shown in bold italics).

Article 8

Regulatory and other Committees

8.1 Regulatory and other ordinary Committees

The Council will appoint the committees set out below to discharge the functions described in Part 3 of this Constitution.

- Planning and Highways Committee
- Licensing and Appeals Committee
- Licensing Committee
- Licensing Policy Committee
- Employee Appeals Committee
- Art Galleries Committee
- Constitutional and Nomination Committee
- Personnel Committee
- Audit Committee

These Committees/ Panels will conduct their proceedings in accordance with Article 13 and the Council Procedure Rules in Section A of Part 4 of this Constitution.

8.2 *Health and Wellbeing Board*

(a) *The Council will establish a Health and Wellbeing Board to discharge the functions described in Part 3 of this Constitution.*

(b) *The Health and Wellbeing Board will be composed of:*

- ***The Leader of the Council;***
- ***At least one councillor appointed by the Leader of the Council;***
- ***The Director of Adult Social Services;***
- ***The Director of Children's Services;***
- ***The Director of Public Health;***
- ***One representative appointed by the Local Healthwatch organisation;***
- ***One representative appointed by the North Manchester Clinical Commissioning Group (CCG);***
- ***One representative appointed by the Central Manchester CCG;***
- ***One representative appointed by the South Manchester CCG;***
- ***One representative of the NHS Commissioning Board;***

- ***Such other persons, or representatives of such persons, as the Council considers appropriate (provided that in the case of appointments after the Board is established the Council first consults the Board);***
- ***Such additional persons as the Board considers appropriate.***

8.3 Advisory Committees

The Council may appoint an advisory committee to advise the Council or the Executive in relation to any matter relating to the discharge of their functions.

PART 4, SECTION A

COUNCIL PROCEDURE RULES

5 Establishment of Committees and Sub-Committees

- 5.1 Subject to Rules 5.1 to 5.9 below, the Council may establish such committees as it considers necessary to carry out the work of the Council and may refer to those committees such matters as are considered appropriate.
- 5.2 ***The Council shall establish a committee to discharge its functions relating to Art Galleries. Such committee shall consist of at least 14 elected members and 7 non-voting members appointed by the Victoria University of Manchester. The Council and the University may agree that a lesser number of University members be appointed.
- 5.3 The Council shall establish a Standards Committee in accordance with the Local Government Act 2000, the composition of which will be in line with Article 9 of Part 2 of the Constitution.
- 5.4 *The Council shall establish a Health and Wellbeing Board in accordance with section 194 of the Health and Social Care Act 2012, the composition of which will be in line with Article 8.2 of Part 2 of the Constitution.***
- 5.5 The Council shall establish a Licensing Committee with not less than 10 and not more than 15 members.
- 5.6 The Council shall establish a Planning and Highways Committee.
- 5.7 The Council shall establish a Licensing and Appeals Committee.
- 5.8 The Council shall establish a Wythenshawe Area Committee as an area committee consisting of the councillors elected for the wards of Baguley, Brooklands, Northenden, Sharston and Woodhouse Park.

- 5.9 The Council shall appoint a Constitutional and Nomination Committee, a Personnel Committee, an Employee Appeals Committee and an Audit Committee.
- 5.10 The Council shall establish the following overview and scrutiny committees:
- Young People and Children
 - Communities
 - Neighbourhoods
 - Economy
 - Health
 - Finance
- 5.11 Committees may establish standing sub-committees, subject to the approval of the Council, to carry out the work of the committee and may refer to those sub-committees such matters as are considered appropriate. Committees may also establish ad hoc sub-committees to consider any specific matter referred to them.
- 5.12 ***Subject to Rules 5.13 and 5.14 where a matter is referred to a committee or sub-committee, the decision of the committee must be approved by the Council before it becomes effective.
- 5.13 ***Except in relation to those decisions which by statute must only be taken by the full Council, the Council may delegate powers to committees or sub-committees. Where a matter has been delegated to a committee, the committee may further delegate the matter to a sub-committee unless the Council otherwise direct.
- 5.14 ***Subject to Rule 9, where a matter is delegated in accordance with Rule 5.12 above, the decisions of the committee or sub-committee do not require approval by the Council (or committee) unless the delegation has been previously withdrawn in relation to the particular item.

APPENDIX 3

Draft Delegations to Director of Public Health (to be inserted at Part 3 of the Council's Constitution)

The holder of the post of Director of Public Health shall be responsible for the management of the Public Health Manchester Team within the Directorate of Families, Health and Wellbeing, and the discharge of the statutory responsibilities of the Director of Public Health under section 73A(1) of the National Health Service Act 2006, and without prejudice to the foregoing, shall have power subject to compliance with the Constitution, Standing Orders, any relevant provisions of the Financial Regulations and any legal requirements, to:

1. Provide the public, elected Members of Manchester City Council and Officers of Manchester City Council with expert, objective advice on health matters.
2. Discharge Manchester City Council's duty under section 2B of the National Health Service Act 2006 to take such steps as the Council considers appropriate for improving the health of the people in its area, including:
 - (a) providing information and advice;
 - (b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
 - (c) providing services or facilities for the prevention, diagnosis or treatment of illness;
 - (d) providing financial incentives to encourage individuals to adopt healthier lifestyles;
 - (e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
 - (f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
 - (g) making available the services of any person or any facilities; and
 - (h) providing grants or loans (on such terms as Manchester City Council considers appropriate).
3. Discharge any of the Secretary of State's public health protection or health improvement functions that s/he delegates to Manchester City Council, either by arrangement or under regulations, including those services mandated by regulations made under section 6C of the Health and the National Health Service Act 2006.
4. Ensure that plans are place to protect the health of the local population from threats to health and prevent, as far as possible, threats to health arising.
5. Exercise Manchester City Council's functions in planning for, and responding to emergencies that present a risk to public health.
6. Discharge Manchester City Council's functions in relation to dental public health under section 111 of the National Health Service Act 2006.

7. Discharge any functions imposed on Manchester City Council in relation to joint working with the prison service under section 249 of the National Health Service Act 2006.
8. Prepare an annual report on the health of the population of Manchester City Council under section 73(B)(5) of the Health Service Act 2006.
9. Commission mandatory public health services on behalf of the Secretary of State and other prevention and health improvement services that meet the needs of the population of Manchester City Council, address the public health outcomes framework and tackle local priorities as set out in Manchester's Health and Wellbeing Strategy.
10. To ensure that public health and population health care advice is provided to the National Health Service.
11. To discharge the functions of Manchester City Council in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.
12. To ensure that plans are in place to tackle the causes of ill health and reduce health inequalities in Manchester.
13. To support the production of a Joint Strategic Needs Assessment that sets out the current health and wellbeing needs of the population of Manchester City Council.
14. To support the Health and Wellbeing Board in its operation as a Committee of Manchester City Council and in meeting its statutory requirements under section 194 of the Health and Social Care Act 2012 and its partnership aspirations.
15. To support the Health and Wellbeing Board to produce and implement a Joint Health and Wellbeing Strategy.
16. To be responsible for Manchester City Council's public health response as a responsible authority under the Licensing Act 2003.
17. To discharge Manchester City Council's function under the Healthy Start and Welfare Food Regulations 2005 (as amended) in relation to providing Healthy Start vitamins where Manchester City Council provides or commissions a maternity or child health clinic.
18. To authorise the Consultants in Communicable Disease Control of Public Health England and/or their deputies to act on behalf of the City Council as proper officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.

19. To act on behalf of the Council as proper officer for the purposes of section 47 of the National Assistance Act 1948, as amended.
20. To authorise on behalf of the Council appropriate port Medical Officers in the exercise of the statutory functions relating to the control of infectious and other diseases and food poisoning.