
**Manchester City Council
Report for Information**

Report to: Health and Wellbeing Board – 20 March 2013

Subject: Health and Wellbeing Board - Governance and Constitutional Issues

Report of: Governance and Scrutiny Support Unit

Summary

This report summarises the key issues arising from the recently published Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 which will come into effect on 1 April 2013. The Regulations modify certain legislation as it applies to health and wellbeing boards and its operation. This report provides a summary of how the Regulations will affect the operation of Manchester's Health and Wellbeing Board and its members.

Recommendations

The Health and Wellbeing Board is asked to note this report.

Wards Affected:

All

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Background documents (available for public inspection):

none

Introduction

1. This report summarises the key issues arising from the recently published Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 which were laid before parliament on the 8 February 2013. The Regulations will come into effect on 1 April 2013. The Regulations can be downloaded from the internet at <http://www.legislation.gov.uk/ukxi/2013/218/contents/made>.
2. Under section 194 of the Health and Social Care Act 2012, a health and wellbeing board is a committee of the council. Committees are established according to section 102 of the Local Government Act 1972. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 modify certain legislation as it applies to health and wellbeing boards and also removes the requirement for health and wellbeing boards to comply with some of the legislation around committee structures and procedures. The provisions which are modified or disapplied are in the Local Government Act 1972 and the Local Government and Housing Act 1989.
3. This report explains the characteristics shared by health and wellbeing boards and other council committees and the areas of legislation that do not apply. It also provides a summary of how the Regulations will affect members of the Health and Wellbeing Board in Manchester.

Establishment of Health and Wellbeing Boards

4. The Health and Social Care Act 2012 places a statutory requirement on all unitary and upper tier local authorities to establish a health and wellbeing board. There are a number of statutory requirements that a health and wellbeing board must fulfil to ensure compliance with the new Regulations.
5. The Health and Social Care Act 2012 gives health and wellbeing boards specific functions including the preparation of Joint Strategic Needs Assessment and a Joint Health and Wellbeing Strategy for the local area. They are also required to encourage integrated working between health and social care commissioners in connection with the provision of health and social care services. Additionally, the Health and Social Care Act enables local authorities to delegate specific functions to health and wellbeing boards including for example, the Council's public health functions. If executive functions are to be delegated to the Health and Wellbeing Board, it is important to note that this will require formal delegation of functions and powers by the Leader. The draft terms of reference of the Health and Wellbeing Board that will be included in the Council's Constitution are included at appendix 1.
6. At its meeting on 27 March 2013, the Council will formally establish Manchester's Health and Wellbeing Board which will become a statutory committee of the Council from 1 April 2013.

Sub Committees

7. The Regulations enable the Health and Wellbeing Board to establish formal sub committees of members to carry out its functions and make decisions.
8. It should be noted that there is a difference between the operation of formal sub committees and informal working arrangements such as working groups. Formal sub committees are subject to the same provisions around openness and transparency that the Board is subject to. Further details on this are provided in the next section of the report. Less formal structures such as working groups do not have powers to make decisions but are able to report their recommendations to the Health and Wellbeing Board.

Transparency and Openness

9. Health and Wellbeing Board meetings will be subject to the same openness and transparency rules as other Council committees established under section 102 of the Local Government Act 1972. The law requires all agendas and reports to be made available to the public five clear working days in advance of the meeting. Meetings should be held in public and the public should also be able to access any additional information that is discussed in a meeting. If a decision needs to be made in private, information associated with that decision can be exempt from these rules only in the circumstances prescribed in the Council's Access to Information rules in Part 4 of the Constitution.

Membership

10. Membership of health and wellbeing boards is different to other Council committees in that officers and external partners are required to be members. The Health and Social Care Act 2012 sets a core membership that must include:
 - at least one councillor from the relevant council (who is appointed by the Leader of the Council)
 - the director of adult social services
 - the director of children's services
 - the director of public health
 - a representative of the local Healthwatch organisation (which will come into effect from 1 April 2013)
 - a representative of each relevant clinical commissioning group (CCG)
 - a representative of the NHS Commissioning Board
 - 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).
11. Councils can determine the number and balance of councillor representatives locally and these are appointed by the Leader of a Council. The Act enables the Leader to be a member of the Health and Wellbeing Board in addition to appointing other councillors. The Regulations also remove the requirement for political proportionality of membership of the Board. To enable the Council's officers to become members of the Board, the Regulations also disapply the part of the Local Government Act 1972 which prohibits Council officers from becoming members of local authority committees. The Council can appoint additional members that are deemed appropriate in consultation with the Health and

Wellbeing Board. The Health and Wellbeing Board itself can also appoint such additional members as the Board considers appropriate.

12. In Manchester, the core membership of the Health and Wellbeing Board will be agreed at the Council meeting on 27 March. Representatives of the hospital provider trusts the voluntary and community sector and the adults and childrens safeguarding boards will also be appointed during this process.
13. The Regulations do not refer to substitution of Board members so this rule is open to local determination. Manchester City Council does not currently have a formal scheme of substitution for committee members although it is common practice for Board members to send a substitute to meetings of the shadow board.
14. If it is considered appropriate to have substitute members, the Council will need to appoint named substitutes for each of the Health and Wellbeing Board members. Once the Health and Wellbeing Board is a statutory committee, functions cannot be carried out by anyone other than the constituted members of the Board. Members should be aware that no-one other than themselves or their named substitute could have formal voting rights or decision making powers on the Board. Health and Wellbeing Board members should give some consideration to whom they wish to nominate as their named substitute for meetings.

Voting

15. Regulation 6 enables all members of the Health and Wellbeing Board or its sub committees to vote unless the Council decides to implement restrictions on voting rights for some Board members. All voting restrictions need to be agreed by the full Council after consultation with the Health and Wellbeing Board. When reaching a decision about whether to enable all members to vote, it should be noted that consideration should be given to equality in the decision making process if Board members do not have equal voting rights. In Manchester, the Health and Wellbeing Board includes representatives from NHS providers as well as commissioners. It should be noted that these members are also subject to the requirements about declarations of interest. Further detail on this is provided in the next section of the report.

Codes of Conduct and Conflicts of Interest

16. All councillors and voting co-opted members (“members”) of any Council committees are required to comply with the Council’s new “local” code of conduct for members (“the Code”) which was adopted by the Council on 11 July 2012. A copy of the Code is included at Section A, Part 6 of the Council’s Constitution, and can be downloaded from the internet at http://www.manchester.gov.uk/egov_downloads/UpdateWorkProgramme.pdf,
17. Part 1 of the Code sets out the general obligations of members. Part 2 of the Code requires members to comply with the requirements of the Localism Act in respect of “disclosable pecuniary interests” (‘DPIs’). A member’s DPIs include the member and their partner’s business interests (for example their employment, trade, profession, contracts or any company with which they are associated) and

wider financial interests they might have (for example assets including land and property). Part 3 of the Code requires members to comply with requirements of the Council in respect of “personal interests” and “prejudicial interests”. The Code deals with the requirement for members to declare when they have a “DPI” or a “personal interests” in a matter which is to be considered at a Board meeting, and the requirement for members to withdraw from meetings in which they have a “DPI” or a “prejudicial interest” in a matter which is to be considered. Board members should note that these rules will be relevant when making decisions about contracts with service providers if these powers were delegated to the Board.

18. All voting non councillor members of the Health and Wellbeing Board will be required to complete a declaration of interest within 28 days of “taking office” when the Board is formally constituted on 1 April 2013. The blank form is attached at appendix 2 for reference. Each member’s declaration of interest will be included in the Council’s Register of Interest which is required by law to be published on the Council’s website. Deliberate failure of a member to comply with the requirements of the Localism Act in respect of DPIs is a criminal offence, punishable with a fine of up to £5,000 and disqualification from office for up to five years. The Governance and Scrutiny Support Unit is able to provide further guidance on these matters on request.

Accountability and Council Structures

19. Decisions made by the Health and Wellbeing Board under their core functions do not need to go on the Council’s ‘Register of Key Decisions’ and they are not subject to the requirement to provide 28 days notice of intention to take a decision. The only exception to this will apply if the Council delegates additional specific functions to the Board. In these circumstances, the Board will need to adhere to the relevant requirements of all of the applicable legal frameworks. As health and wellbeing boards are non Executive committees (they are a committee of the Council), their core functions are not subject to the Council’s call in procedure (where 5 councillors or a chair of a scrutiny committee can delay the implementation of a decision until it has been reviewed by scrutiny committee). As in the previous point, where additional functions are delegated to the Board, it will have to adhere to the relevant requirements in the relevant legal frameworks.

Conclusion

20. The Regulations require certain actions from all members of the Board which are described in detail in the report. Further guidance is available from the Governance and Scrutiny Support Unit or Democratic Services. The Health and Wellbeing Board is asked to note the contents of this report.

Appendix 1 – Draft Terms of Reference of the health and Wellbeing Board

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 – Blank Declaration of Interest Form



LOCALISM ACT 2011

**MANCHESTER CITY COUNCIL'S
CODE OF CONDUCT FOR MEMBERS**

REGISTER OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS (IN ACCORDANCE WITH SECTIONS 30 AND 31 OF THE LOCALISM ACT 2011 AND THE RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS) REGULATIONS 2012 (S.I. 2012 No. 1464)), AND MEMBERS' PERSONAL INTERESTS IN ACCORDANCE WITH PARAGRAPH 11.2 OF MANCHESTER CITY COUNCIL'S CODE OF CONDUCT FOR MEMBERS

I _____, being a Member of Manchester City Council's Health and Wellbeing Board give notice that I have set out at PART 1 below under the appropriate heading the disclosable personal interests that I am required to notify to the Council's Monitoring Officer in accordance with Sections 30 and 31 of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and/or by virtue of Rule 29 of Manchester City Council's Procedure Rules and that I have set out at PART 2 below the personal interests which I am required to notify to the Council's Monitoring Officer under Paragraphs 11.1 and 11.2 of the Code of Conduct for Members adopted by Manchester City Council at its meeting on the 11 July 2012 and have put 'NONE' where I am not required to notify any disclosable personal interests or personal interests under any heading.

I am aware that in accordance with Section 30(3) of the Localism Act 2011, I am required to notify at PART 1 both my own disclosable personal interests and also any disclosable personal interests of

- (i) my spouse or civil partner,
- (ii) a person with whom I am living as husband and wife, or
- (iii) a person with whom I am living as if we were civil partners

("my Partner"), where I am aware that my Partner has the disclosable personal interest.

PART 1

DISCLOSABLE PECUNIARY INTERESTS

1. ANY EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION CARRIED ON FOR PROFIT OR GAIN.

Member	Partner

NB: You need to include details of any employment or business in which you or your Partner are engaged. Employees should give the name of their employer. You should give the name of any company of which you or your Partner are a partner or remunerated director. Where you or your Partner hold an office, give the name of the person of the body which appointed you or your Partner (in the case of a teacher in a maintained school – the local education authority; in the case of an aided school – the school’s governing body)

2. SPONSORSHIP

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NB You must *declare* any payment or provision of any other financial benefit (other than from Manchester City Council) made or provided to you in respect of any expenses incurred by you in carrying out your duties as a councillor, or towards your election expenses, within the period of 12 months ending with the day on which you give your notification to the Council’s Monitoring Officer for the purposes of Section 30(1) of the Localism Act 2011 and/or by virtue of Rule 29 of Manchester City Council’s Procedure Rules. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3. **CONTRACTS WITH THE COUNCIL**

Member	Partner

NB You should describe all contracts of which you are aware, which are made between the Council and

- (i) either yourself or your Partner or
- (ii) a body in which you or your Partner have a beneficial interest (being a firm in which you or your Partner is a partner, or a body corporate of which you or your Partner is a director, or in the securities of which you or your partner have a beneficial interest),

which are not fully discharged and which are contracts under which goods or services are to be provided or works are to be executed.

Please note that the reference to “securities” means “shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

4. **LAND IN THE AREA OF THE CITY COUNCIL**

Member	Partner

You should include any land (including houses, buildings or parts of buildings and any interests as mortgagee) within the City’s boundaries in which you or your Partner, either alone or jointly, have a proprietary interest for your or your Partner’s benefit. You should give the address or brief description to identify it. **If you live in Manchester you should include your home under this heading** either as owner, lessee or tenant. You should also include

any property from which you or your Partner receive rent, or of which you or your Partner are the mortgagee.

5. LICENCES TO OCCUPY LAND

Member	Partner

NB You should include any land (including buildings or parts of buildings) within the city's boundaries which you or your Partner have a right to occupy for 28 days or longer (either alone or jointly with others). You should give the address or a brief description to identify it.

6. CORPORATE TENANCIES

Member	Partner

[NB You should list here any tenancies of properties of which you are aware, where the landlord is the City Council and the tenant is a body in which you or your Partner have a beneficial interest (being a firm in which you or your Partner is a partner, or a body corporate of which you or your Partner is a director, or in the securities of which you or your partner have a beneficial interest).

Please note that the reference to “securities” means “shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

7. SECURITIES

Member	Partner

- NB You should list here any beneficial interest of you or your Partner in securities of a body where –
- (a) that body (to your knowledge) has a place of business or land within the City’s boundaries; and
 - (b) either –
 - (i) the total nominal value of the securities held by you or your Partner exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your Partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Please note that the reference to “securities” means “shares, debentures, debenture stock, Loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

PART 2

PERSONAL INTERESTS

1. BODIES TO WHICH YOU ARE APPOINTED OR NOMINATED BY THE COUNCIL

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NB You should record here details of your **position of general control or management**, in any –

- Body to which you have been appointed or nominated by Manchester City Council as its representative.

2. INTERESTS IN CHARITIES, SOCIETIES AND OTHER BODIES

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NB You should record here details of your **position of general control or management**, in any –

- Public authority or body exercising functions of a public nature;
- Company, industrial and provident society, charity, or body directed to charitable purposes. (Freemasons should include here membership of the Masonic Grand Charity)
- Body whose principal purposes include the influence of public policy, including party associations, trade union or professional association.

3. GIFTS AND HOSPITALITY

None

You should list here any person from whom you have received a gift(s) or hospitality with an estimated value of at least £100 (including multiple gifts and/or hospitality with an aggregate

value of at least £100 from the same person). You should provide a description of the gift(s) or hospitality and the person you believe to be the source of the gift(s) and hospitality (including accumulative gifts and/or hospitality).

You should list any such gifts or hospitality which you have received within whichever is the shortest of the period of 3 years or the period since you were first elected as a Member of Manchester City Council.

I recognise that it can be a CRIMINAL OFFENCE under Section 34 of the Localism Act 2011 to:-

- i) fail to comply with the obligation to notify the Council's Monitoring Officer of any disclosable pecuniary interests as required by Section 30(1) of the Localism Act 2011;***
- ii) provide information in relation to disclosable pecuniary interests that is materially false or misleading, and***
- iii) fail to comply with the obligation to notify the Council's Monitoring Officer of any further disclosable pecuniary interests that require notification in accordance with Sections 30(2) and 30(3) of the Localism Act 2011.***

I authorise this information to be made available in the Council's Public Register of Member's Interests which will be published on the Council's website as required by Section 29(6)(b) of the Localism Act 2011.

Signed Date:

FOR OFFICE USE ONLY

RECEIVED

SignedChief Executive or City Solicitor

Date