

Terms of Reference and Locally Agreed Working Arrangements for the Bracknell Forest Health and Wellbeing Board

Terms of Reference

- 1.1 The Health and Wellbeing Board is a statutory committee of the local authority which:
- a. Is established in accordance with section 194 of the Health and Social Care Act 2012 ("the Act"); and,
 - b. Is treated as a Committee of the Council under section 102 of the Local Government Act 1972 ("the 1972 Act") and provisions of the Local Government and Housing Act 1989 ("the 1989 Act"); excepting modifications and disapplications of the 1972 Act and the 1989 Act as set out in The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ("the Regulations"); and,
 - c. Will be subject to any amendment or replacement of or regulation or guidance applicable to any legislation relevant to the functions, powers and duties of Health and Wellbeing Boards.

Locally Agreed Working Arrangements for the Board

1. Functions and Responsibilities

The Board shall:

- 1.1 Improve health outcomes and reduce health inequalities of local people in Bracknell Forest who are defined in the Act as:
 - a. people who live in the Borough
 - b. people to whom care services are being or may be provided in the Borough
 - c. people from the Borough to whom care services are being provided in any other place
- 1.2 Prepare a Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy in accordance with the provisions set out in f.) below
- 1.3 Encourage integrated working between members of the Board and between the Board and other services with health-related outcomes.
- 1.4 Assume any function with a health-related outcome delegated to it by the Council under section 196(2) of the Act
- 1.5 Facilitate and enable a duty to cooperate between the Secretary of State and all individuals and organisations who carry out health protection functions under Section 60 of the Act and request information from any statutory, specific or cooperating body of the Board in accordance with the provisions of section 199 of the Act.

2 Exercising responsibilities of the Board

The Board shall:

2.1 Comply with the Duty to Integrate

- 2.1.1 In accordance with section 195 of the Act, the Board shall identify, create or enhance integrated working relationships between existing or new partners, agencies and providers of services with health related outcomes so that they may work in a joined up and integrated manner and in so doing:
- a.) Assess the impact of the Act and any other relevant legislation as enacted or subject to Parliamentary passage on the functions, powers and duties of Health and Wellbeing Boards and services for which members of the Board are responsible
 - b.) Address gaps in skills, knowledge and experience and develop common and shared understanding of priorities and issues relating to respective partner agencies in exercising the functions of the Board
 - c.) Identify and maximise the use of any function, service or asset that may have an impact on the health and wellbeing outcomes of local people which is under the purview of health or social care services whether delivered directly by those services or in partnership with or through third parties on behalf of those services
 - d.) Allow for inclusive and joint working with other health and wellbeing boards under section 198 of the Act as necessary in particular, with the health and wellbeing board in the Royal Borough of Windsor and Maidenhead in ways that are agreeable to all members' governing bodies, for purposes and circumstances as defined and agreed by the Board
 - e.) Ensure effective multi-agency and multi-sector contribution to improving health and wellbeing outcomes for all people in the Borough, and specifically in relation to:
 - i) the agreement of joint commissioning arrangements for reviewing, considering and agreeing the educational, health and social care provision ("EHC provision") for children and young people with special educational needs for whom the local authority is responsible subject to section 26 of the Children and Families Bill and;
 - ii) the publication of information (the "local offer") relating to the educational, health and social care provision ("EHC provision") for children and young people with special educational needs for whom the local authority is responsible within and outside the local authority area in accordance with section 30 of the Children and Families Bill
 - iii) co-operation and assistance of each identified local partner of the local authority in accordance with section 28 of the Children and Families Bill
 - iv) the requirements of the Care Bill (HL1) in relation to the Local Safeguarding Adults Board in accordance with Schedule 2
 - f.) Direct and focus the work of the Board through the production of a forward plan that is reviewed and refreshed on a regular basis

g.) Establish, oversee and monitor the work of any sub-groups of the Board.

2.2 Identification of local needs

The Board shall:

- 2.2.1 Undertake projects, research, community consultation exercises and analysis to inform the work of the Board
- 2.2.2 Ensure the Local Authority and Bracknell and Ascot Clinical Commissioning Group and the Director of Public Health and Local Healthwatch Bracknell Forest will work under an equal and explicit obligation to determine arrangements to secure the commissioning of quality, consistent and comprehensive health and local government services for all people throughout the life course from pre-cradle to grave, through the:
 - a. Use of existing or commissioning in partnership of new mechanisms as required, to engage with and involve patients and the public, including children and young people, parents and families, to secure and evidence their views and inform the deliberations of the Board and its business
 - b. Preparation of an enhanced Joint Strategic Needs Assessment in accordance with section 192 of the Act and subsequent regulation¹ that considers:
 - i) the needs of the whole community, wider social, environmental and economic factors
 - ii) the health and social care information needs of the community
 - iii) an assessment of the community's asset and resource offer
 - iv) EHC provision subject to section 27 of the Children and Families Bill 2012 and review under section 28 of the same
 - c. Development of a Joint Health and Wellbeing Strategy (s.193) which identifies priorities and resources to deliver improved health outcomes and reduce health inequalities, and assess the following for alignment with the strategy:
 - i) the CCG commissioning plan in accordance with section 26 of the Act
 - ii) Local Authority Service Plans in accordance with the provisions of s.193 (116 B (a) and (b)) of the Act
 - iii) The Local Healthwatch forward plan in the spirit of section 26 of the Act
 - d. Development, updating and publishing of local pharmaceutical needs assessments (s.206)
 - e. Transfer (s.17) to and delivery (s18) of public health responsibilities by the local authority

¹ Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies – Guidance for Consultation, DH Gateway Reference 17858, 31 July 2012

- f. Agreement of the Education and Training Plan of the Local Education Training Boards to ensure that it is aligned with the Joint Health and Wellbeing Strategy for the area as per section 64 (3)(f) of the Care Bill
- g. Receipt of the Local Safeguarding Adults Board annual report for the specific review by the Chairman of the Board and the Local Healthwatch representative at the end of each financial year in accordance with Schedule 1, 3(3) of the Care Bill

2.3 Information Sharing and Cooperation

The Board shall:

- 2.3.1 Work within an agreed information sharing protocol that shall enable the commissioning, identification, access and exchange of data and information between members of the Board, other committees and partnerships and providers of services or other agencies or bodies with health related outcomes that is compliant with information standards as issued by the Health and Social Care Information Centre in accordance with Part 9 of the Act
- 2.3.2 Constituent members of the Board shall be responsible for advising the sensitivity of documentation submitted to the Board.

2.4 Pooling of resources

The Board shall:

- 2.4.1 Advise, assist or support the encouragement or making of arrangements for the pooling of resources under section 75 of the National Health Service Act 2006 in accordance with section 195 (2) of the Act or such other frameworks or mechanisms as applicable to ensure the objectives of the Board are met.

2.5 Accountability and Performance Monitoring

The Board shall:

- 2.5.1 Comply with applicable legislation, regulations, guidance and local provisions to:
 - a. meet with the provisions for independent health overview and scrutiny
 - b. ensure the voice of patients and the public are heard in the business of the Board as set out in 2.2.2 above
 - c. Deliver against agreed priorities set out in the Joint Health and Wellbeing Strategy
 - d. Monitor and measure improvements in health outcomes and reduction in health inequalities against the national Outcomes Frameworks for health, adult social care and public health and other locally relevant measures.

3. **Constitutional Arrangements**

- 3.1 The Health and Social Care Act 2012 stipulates that the Board is a statutory committee of the local authority and is to be treated as a committee of the Council under section 102 of the Local Government Act 1972; excepting a number of modifications and disapplications

3.1.1 The Board as a result must adhere to the provisions of the Council's Constitution, excepting the following provisions that have been modified or disapplied by the Public Health, Health and Wellbeing Boards and Health Scrutiny Regulations 2013 (2013 Regulations):

- a) The Council is not required to apply political proportionality rules when appointing elected members to the Board's membership
- b) The Board can appoint sub-committees to undertake some of its functions.
- c) All Board members are allowed to have voting rights. Voting rights must be agreed by the Council, upon the proposal of the Board
- d) Council officers are allowed to be members of the Board

3.1.2 The key elements of the Council's Constitution that Board members need to have regard to are:

- i) The Council's Code of Conduct – which includes advice and guidance around declaring interests at meetings (Part 4, Section 13 of the Council's Constitution) and
- ii) The Council's Committee Procedure Rules which set out the procedures to be followed for Board meetings (Part 4, Section 4 of the Council's Constitution)

Both of these documents can be found in the Council's Constitution at

www.bracknell-forest.gov.uk/yourcouncil/councillors,democracyandelections/councilconstitution

3.2 Code of Conduct and Declaring Interests

- 3.2.1 Under the Localism Act 2011, all non-councillor members of the Health and Wellbeing Board are considered to be co-opted members of the Council. All co-opted members of the Council are required to abide by the Council's Code of Conduct and complete the relevant co-opted member register of interest's form.
- 3.2.2 All Board members will also be required to complete a disclosable pecuniary interests form, guidance around declaring interests at Council meetings can be found in the Council's Code of Conduct.
- 3.2.3 In particular Board members attention is drawn to Section 34 of the Localism Act 2011: which '***makes it a criminal offence if a member or co-opted member fails, without reasonable excuse, to comply with requirements under section 30 or 31 to register or declare disclosable pecuniary interests, or take part in the local authority's business at meetings or when acting alone when prevented from doing so.***'
- 3.2.4 Should Board members be in any doubt as to whether they need to declare an interest in an agenda item, they are advised to contact Democratic Services at the earliest opportunity and ahead of a meeting where possible. Democratic Services will then offer advice and/or consult the Council's legal team where necessary.

3.3 Membership of the Board

3.3.1 The Board shall comprise a core membership of constituent bodies in accordance with section 194 of the Act:

3.3.2 The constituent bodies are:

- a. Bracknell Forest Council
- b. Bracknell and Ascot Clinical Commissioning Group
- c. Local Healthwatch Bracknell Forest

3.3.3 The 2012 Act prescribes the composition of the Board. Membership of the Board must comprise:

- i) at least one councillor nominated by the Leader of the Council. The Council has appointed two elected members.
- ii) the Director of Public Health
- iv) the Director of Adult Social Care, Health & Housing
- v) the Director of Children, Young People & Learning
- vi) a representative of the Local Healthwatch organisation
- vii) a representative of each relevant Clinical Commissioning Group, at present there is only one.

3.3.4 Additional Members

The 2012 Act permits the Council to appoint 'such other persons or representatives of such persons as the local authority thinks appropriate'. The Council's Chief Executive has been appointed under this provision. The Board may also appoint additional members on a temporary or permanent basis as appropriate to its information and task requirements

Where additional members have voting rights, the local authority must consult with members of the Board in relation to recommendations for additional appointments prior to agreement of the appointment by Council.

3.3.5 Specific memberships – NHS England

Upon request of the Board a representative from the NHS England or their nominee must be appointed to the Board under section 197 of the Act:

- a. for the purpose of preparing the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy (s.197(2))
- b. where the Board is considering functions of the NHS England which are exercised or proposed to be exercised in the area of the local authority (s.197(3) and (4))

The NHS England must appoint a representative to the Board and the Board must agree the appointment if the nominee of the NHS England is not a member or employee of the NHS England.

3.4 Support officers

The constituent bodies will be entitled to bring support officers to the meetings when relevant to the business of the Board for the purposes of advising members of the Board.

3.5 Themed Sub-groups

3.5.1 Establishment of sub-groups

Sub-groups shall be established as agreed between the members of the Board and shall, as requested by the Board:

- a. identify aims, baselines, targets, actions and resources within their respective area of work
- b. contribute to the achievement of these aims through multi-agency consultation and intervention
- c. discuss operational matters relevant to the delivery of the Board's work plan, identify areas for greater collaborative working and raise these with the Board
- d. plan resources needed to achieve the aims in the Board's work plan and present evidence for additional resourcing to the Board
- e. Record actions and decisions made at meetings and report on progress against objectives to the Board for review, comment and recommendation.

3.5.2 **Membership of Sub-Groups:** Membership of themed sub-groups will be determined by the Board or a lead officer nominated by the Board.

3.5.3 **Chairing of Sub-groups:** A chairman will be elected for each sub-group by the Board or members of the sub-group for recommendation to and agreement of the Board.

3.5.4 **Working Arrangements - Sub-groups:** Sub-groups shall meet as closed meetings in accordance with the task requirements of the sub-group.

3.5.5 Dispute resolution

3.5.6 Any disputes that arise and which remain unresolved by the sub-groups must be reported to the Board to seek resolution. The Chair of the relevant sub-group must report to the Board in a timely manner and between meetings of the Board as necessary:

Any disputes that arise or any issues that remain unresolved by the members of the sub-group

3.5.7 For the purposes of resolving disputes or issues, the Board has agreed that the Chairman and the Vice Chairman of the Board are permitted under the delegated authority of the Board to:

- a. seek to resolve the issue between themselves and report their joint decision to the Board
- b. agree to take the issue to the next meeting of the Board for further deliberation
- c. confer with members of the Board or convene members of the Board outside the agreed schedule of meetings.

3.6 Public Participation

3.6.1 The Board is committed to engaging the public in its work. A Public Participation has been agreed by the Board and approved by full Council.

3.7 Committee Procedure Rules: Transparency and Openness

- 3.7.1 Section 102 committees provisions apply to the Health and Wellbeing Board such that:
- a. Members of the Board who are not elected members shall be considered as co-opted members of the Council and equally subject to the Council's Code of Conduct and requirements to complete register of interests forms
 - b. Meetings must be in public and will be subject to the Access to Information procedure rules as set out in the Council's Constitution attached at Annex D, Section 5.
 - c. Agendas and minutes for the Board must be made publicly available.
 - d. The Equality Act 2010 applies and Council equalities screening will be undertaken for any strategy, policy, procedure, review, plan or service developed by the Board
 - e. The provisions of the Data Protection Act 1998 applies in relation to the processing of information relating to individuals
 - f. The Freedom of Information Act applies in relation to the general right of access to information held by public authorities

3.8 Reporting

- 3.8.1 Reports will be submitted by respective members for the agreement by the Board, using the report template used by Bracknell Forest Council.
- 3.8.2 A single report on progress against objectives shall be produced by the Board on an annual basis for submission to the relevant executive authorities and scrutiny bodies of the constituent members or more frequently as requested by those bodies.

3.9 Decision Making and Voting

3.10 The Board is a statutory body with decision making powers and is convened to make common recommendations to the respective decision making bodies of each participating member under arrangements agreed by participating parties as set out in these terms.

3.10.1 Partners shall bring along their own expertise to the decision making process, but decisions will be taken in the overall interest of Board objectives.

3.11 Voting

3.11.1 In the application of voting, the following principles shall apply:

- a. Arrangements for voting shall give all members parity of esteem with members being seen as equal and shared decision makers.

- b. The Board will endeavour to reach consensus on matters for decision such that a vote is not necessary.

3.11.2 Where a vote is necessary:

- a. Regulation 6 modifies section 13(1) of the 1989 Act such that all members of the health and wellbeing board or all members of sub-committees have voting rights

3.12 Arrangements for voting

Each Board member shall have an equal vote, should there be a tied vote, the Chairman will have a casting vote.

3.13 Voting in relation to the NHS England

3.13.1 NHS England shall have voting rights only for matters arising under 3.3.5 above.

4 Quorum

- 4.1 The provisions of the Council's Constitution shall apply such that one quarter but no fewer than three of the voting membership needs to be present in order for a Board meeting to be quorate. In addition, ideally the three constituent bodies must be present.