



Council
18 November 2013

**Report from the Assistant Chief
Executive**

For Action

Wards Affected:
ALL

Health and Wellbeing Board Voting Arrangements

1. Summary

- 1.1 At Full Council on 24th June voting proposals were agreed for the Health and Wellbeing Board, subject to consultation with the Board. This report sets out the views of the Health and Wellbeing Board on those proposals, which it discussed at its meeting on the 3rd July.
- 1.2 Following the debate at the Health and Wellbeing Board, and further consideration of the original proposals, it is proposed to give every member of the Health and Wellbeing Board voting rights, except council officers. Full details are set out in the report below.

2. Recommendations

- 2.1 Full Council is recommended to:
 - (i) Note the response from the Health and Wellbeing Board on the consultation on voting rights.
 - (ii) Agree that all members of the Health and Wellbeing Board be given voting rights, except council officers.
 - (iii) Agree that the quorum for the Health and Wellbeing Board be four voting members, with at least two councillors and two other voting members present in order for a meeting to take place.

3. Details

Background

- 3.1 Full Council established the Brent Health and Wellbeing Board at its meeting on 24th June 2013. Members will recall that in establishing the Health and

Wellbeing Board, Council proposed voting arrangements for it. The proposed voting arrangements were subject to consultation with the Health and Wellbeing Board, which is required by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

- 3.2 The Health and Wellbeing Board met for the first time on 3rd July and considered a report on governance that included the proposed voting arrangements in order to feedback views to Council.
- 3.3 The background to this issue was set out in the report to Council in June 2013. In order to fit Health and Wellbeing Boards within local authority structures, the Government has used section 102 of the Local Government Act 1972 as their legislative framework which governs the Council's ordinary Committee arrangements. By using this established legislation there are consequences for the operation of the Board, such as voting rights.
- 3.4 Ordinarily section 102 of the Local Government Act 1972 prevents non members of the Council from voting at committees except in relation to a specified set of committees. However, regulation 6 of the Health and Wellbeing Board regulations provides that unless the Council chooses to restrict voting rights to certain members of the Health and Wellbeing Board, all members of the Health and Wellbeing Board will have voting rights.
- 3.5 Although Health and Wellbeing Boards have a unique role and membership requirement, the voting regulation presented a problem to local authorities. It is highly unusual to have officers of the council and external partners voting on a council committee since this goes against the principles of local democracy and decision making by elected representatives.
- 3.6 That said, the Council recognised that Health and Wellbeing Boards are supposed to act as the leaders of health and social care services in their area and that they were intended to be collaborative groups that work to implement a shared agenda for health and social care in each council area. If a collaborative board was to be established, setting up a board where only elected members can vote seemed to go against the original intention.
- 3.7 As a result, the arrangements originally proposed by Full Council reflected the need to give voting rights to CCG partners. The original proposals were:
 - All elected councillors who are members of the Health and Wellbeing Board should have voting rights. There are five councillors who are members of the Board – four administration councillors and one opposition councillor
 - Three named representatives of Brent Clinical Commissioning Group should have voting rights, including at least one GP.
 - No other member of the Health and Wellbeing Board will be permitted to vote on decisions of the Board.

Health and Wellbeing Board Views

- 3.8 In discussing the voting arrangements the Health and Wellbeing Board was unable to reach a consensus, but did agree that all views would be reported to Full Council. Representatives of the Brent Clinical Commissioning Group argued that the CCG should have the same number of voting members as the local authority to reflect the partnership nature of the group. This viewpoint was endorsed by some, but not by all of the elected members of the Board. The Health Watch representative also argued that Health Watch should be voting members of the Board again to reflect the partnership intentions. The full minute from the meeting on the 3rd July is included as an appendix to this report, which includes details of the Board's discussion on this matter.
- 3.9 The original voting proposal would have limited voting rights to members of the council and three Brent CCG representatives. Given the strength of feeling from Brent CCG and Health Watch that voting arrangements at the Board should reflect that partnership nature of the group, it is now proposed that voting rights are given to all CCG representatives on the Board and the Health Watch representative, but not to Brent Council officers. Elected councillors will also have voting rights. As a result, the voting members of the Board will be:

Voting Members

Councillor Ruth Moher (chair)
Councillor Krupesh Hirani, Lead Member for Adults and Health
Councillor Michael Pavey, Lead Member for Children and Families
Councillor George Crane, Lead Member for Regeneration and Major Projects
Councillor H B Patel, Opposition Member
Dr Ethie Kong (vice chair), Chair, Brent CCG
Dr Sarah Basham, Brent CCG
Rob Larkman, Accountable Officer, Brent CCG
Jo Ohlson, Brent Borough Director, Brent CCG
Ann O'Neil, Brent Health Watch

Non Voting Members

Christine Gilbert, Chief Executive
Phil Porter, Interim Director of Adult Social Care
Sara Williams, Interim Director of Children's Services
Melanie Smith, Director of Public Health
Sue Harper, Director of Environment and Neighbourhood Services

- 3.10 The changes to voting proposals will not alter the decision that the council's Executive functions will not be delegated to the Board. It should be noted, for the avoidance of doubt, that the Health and Wellbeing Board will also have no executive powers over the Brent Clinical Commissioning Group.

- 3.10 The Council is committed to creating a strong and meaningful Health and Wellbeing Board that adds value and provides the strategic leadership around the health and wellbeing agenda in Brent. A strong partnership with the CCG and other organisations such as Health Watch is crucial to achieve this, and it will only be achieved if the Board is able to work by consensus and it is highly unlikely that a vote will ever be needed at the Health and Wellbeing Board. However, in line with the requirements under the legislation, the Health and Wellbeing Board has to have voting arrangements in place.

Quorum

- 3.12 The Brent Clinical Commissioning Group raised concerns about the Health and Wellbeing Board quorum at the meeting on 3rd July. They did not agree that meetings should be able to proceed with three councillors but only one CCG representative present, and felt there should be an equal balance between council and CCG representation. Council sets a meeting quorum to ensure that committees cannot proceed without sufficient numbers of members being present. To reflect the voting membership of the Board it is proposed that the quorum be four voting members, with at least two councillors and two other voting members present in order for a meeting to take place.

4. Legal Implications

- 4.1 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 govern the voting arrangements for the Health and Wellbeing Board. The Regulations provide that all members of the Board shall have voting rights unless the Council decides otherwise. The unusual nature of this particular committee and the various competing arguments for different voting arrangements are set out in the body of this report. As explained above there are no executive functions currently delegated to this committee.

5. Finance Implications

- 5.1 None

6. Diversity Implications

- 6.1 None

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Appendix 1 – Minute from Health and Wellbeing Board on 3rd July 2013

Health and Wellbeing Board Governance

Andrew Davies, Policy and Performance Officer introduced the report detailing the background to the establishment of the board and its functions. He clarified that voting regulations under the Local Government Act 1972 for section 102 Committees had been suspended enabling partnership members to vote. It was further clarified that the purpose of the report was to consult the Board on the proposed governance arrangements which would be fed back to Full Council for final determination.

Rob Larkman, CCG Chief Executive was pleased that three CCG members had been given voting rights but highlighted the disproportionality in relation to the number of voting members from the Council, and hoped to see greater balance on a partnership board. Rob Larkman noted the disproportionality in relation to quoracy and the requirement for three councillors and only one CCG representative to be present in order for a meeting to take place.

Councillor R Moher hoped that all deliberations would end in a consensus to ensure efficient partnership working for the residents of Brent.

Councillor HB Patel highlighted that the Board was a collaboration and felt that Brent Health Watch should also be given a vote to ensure fairness. He continued to state that the Board was an equal partnership and that all attendees should have voting rights except Council Officers.

Councillor R Moher noted that there were certain regulations governing committees but reiterated that the proposals before the board were a framework in which to work, but that the Board would have failed in delivering the best services for resident's should a vote be needed.

Daksha Chauhan-Keys, representing Health Watch, echoed Councillor HB Patel's comments and highlighted that it was at the discretion of the Local Authority to allocate votes and as an equal partner felt that Health Watch should not be excluded, particularly as it was a collaborative board.

Rob Larkman noted that voting arrangements were symbolic however felt that by allowing three CCG voting members, Health Watch should also be given a vote to present a clear message that it was a collaborative, partnership board. Councillor R Moher drew the Board's attention to the potential for additional members to be appointed at a later stage.

Councillor HB Patel highlighted the statutory membership and that voting rights had been expanded beyond those who were statutory members and if the membership was expanded further then voting rights could be

considered. He continued to highlight that by having voting rights for all it showed a collaborative partnership arrangement for the residents.

Kathy Robinson, Senior Lawyer, reiterated that the discussion that took place would be presented to Full Council which would take a formal decision on voting arrangements at their meeting in September. She highlighted that the Health and Wellbeing Board was a Committee of the Council; although the statute provided for specific unusual arrangements, it left voting rights at the discretion of the Local Authority. The Senior Lawyer drew the Board's attention to the potential for the Board to make Executive decisions which were ordinarily voted upon by elected members of the Council. The Council's proposal was to achieve a balance of voting rights as far as possible, while preserving the Council's position on voting if required.

Councillor HB Patel noted that although the decision on voting rights was for Full Council, the Board was able to make recommendations. Councillor R Moher informed the Board that all views would be fed back to Full Council on 9 September 2013 and details on Council's decision reported to the Board at the following meeting.

Jo Olson highlighted that CCG may wish to review the governance arrangements of the Board should Pioneer Status be granted and decisions on budget spending be delegated to the Health and Wellbeing Board. Councillor R Moher felt it was unlikely that the Board would be required to make decisions regarding the Pioneer budget. It was highlighted that the Chief Executive was a non statutory member of the Health and Wellbeing Board.

RESOLVED;

- (i) That the report be noted*
- (ii) That the views of the Board on voting rights be reported back to Full Council to inform the decision making process.*