

**PROTOCOL FOR TAKING URGENT DECISIONS AND ADDING LATE ITEMS TO THE AGENDA**

To: Health and Wellbeing Board

Date: 2 October 2014

From: Liz Robin, Director of Public Health

**1.0 PURPOSE**

- 1.1 To present the Health and Wellbeing Board (HWB) with a series of options for managing urgent decisions required at short notice and late agenda items.
- 1.2 The options set out in this report have been closely considered against the procedure for taking urgent decisions contained in Part 4.4(a) of the Council's Constitution, with any necessary comments included.
- 1.3 To agree a process for managing requests for information and/or papers to be considered by the Health and Wellbeing Board (HWB), which are in addition to its core duties.

**2.0 BACKGROUND**

- 2.1 The HWB has a duty to:
  - Assess the needs of the local population by preparing a Joint Strategic Needs Assessment.
  - Produce a local health and wellbeing strategy as the overarching framework within which commissioning plans are developed for health services, social care, public health and other services which the board agrees are relevant.
  - Promote and provide advice, assistance and support for greater integration and partnership between health and social care services; including joint commissioning, integrated provision, and pooled budgets, where appropriate (as outlined Section 75 of National Health Service Act 2006).
  - Comment on and respond to draft commissioning plans from commissioning authorities. These can be referred back to clinical commissioning groups or NHS England if the HWB feels they do not sufficiently take account of the Health and Wellbeing Strategy or recommendations from the Joint Strategic Needs Assessments.
  - Sign-off local plans for the implementation of the Better Care Fund.

- 2.2 Previous experience, particularly when commenting on or signing-off draft plans, has shown that the input of the HWB is sometimes required at short notice. This does not always coincide with the scheduled quarterly HWB meetings.
- 2.3 This issue arose during 2014 where both timescales for the submission of NHS Cambridgeshire and Peterborough Clinical Commissioning Group's 5-Year Plan and the tight deadlines set nationally for the Better Care Fund did not align with quarterly HWB Board meetings. Consequently, at the HWB meeting on 11 June 2014, it was agreed that a series of options for how to manage these scenarios in the future should be presented to the HWB and a way forward agreed.
- 2.4 Also, requests are occasionally submitted by individuals or groups for the HWB to discuss or consider items in addition to the HWB's core duties. Given the amount of core business covered by the HWB, a system is required to identify what should be discussed as part of the HWB's business and what should be signposted elsewhere. Possible systems were previously discussed at a HWB development day in March 2014.

### 3.0 OPTIONS FOR MANAGING ITEMS AT SHORT NOTICE

3.1 A series of options for managing items at short notice are presented below. Due to legal constraints these have been separated out for options requiring a decision (section A) and options requiring discussion and/or comment (section B).

3.2 Options for decision (section A) by the HWB required at short notice:

<b>Option 1A: Schedule an additional HWB meeting on an ad-hoc basis. All HWB members to be invited, with an expectation that many will not be able to attend.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>All HWB members have the opportunity to be involved.</li> <li>Meetings must be held face-to-face in public.</li> </ul>	<ul style="list-style-type: none"> <li>Attendance likely to be low.</li> <li>Could be difficulty in finding appropriate meeting space at short notice.</li> </ul>	<ul style="list-style-type: none"> <li>Quorum would need to be achieved. For the HWB this is five members, with the Chair or Vice-Chair in attendance.</li> <li>At least 5 working days' notice will be required for a decision making meeting to be held in public.</li> </ul>

<b>Option 2A: Schedule a series of provisional additional HWB meetings throughout the year (potentially using development days) with the option to cancel if they are not needed.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>All HWB members have the opportunity to be involved.</li> <li>HWB members would have the dates of</li> </ul>	<ul style="list-style-type: none"> <li>The frequency and timing of provisionally scheduled additional HWB</li> </ul>	<ul style="list-style-type: none"> <li>In practice, this approach is already happening as dates scheduled for HWB development days have frequently been used for</li> </ul>

meetings in their diaries in advance. <ul style="list-style-type: none"> <li>• Venues for meetings could be provisionally booked in advance.</li> <li>• Meetings must be held face-to-face in public.</li> </ul>	meetings may not coincide with timescales of the discussion/decision required.	special HWB meetings. <ul style="list-style-type: none"> <li>• At least 5 working days' notice will be required for a decision making meeting held in public.</li> </ul>
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<b>Option 3A: The HWB to delegate the decision to Officers in consultation with the Chair and Vice-Chair</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• More likely to be able to respond at short notice and within specific timeframes.</li> <li>• The bulk of the discussion can take place outside of a formal meeting, with the key points and decision fed back at a formal public meeting.</li> <li>• Other HWB members could have the opportunity to submit comments to the Chairman and Vice-Chairman/officer remotely, prior to the meeting.</li> </ul>	<ul style="list-style-type: none"> <li>• Not all HWB members would have the opportunity to be involved.</li> <li>• For very urgent items (eg the Better Care Fund) the HWB may not be given sufficient notice to be able to delegate the decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Formal agreement required that officers in consultation with the Chair and the Vice Chair be authorised to make the decision.</li> <li>• The HWB has already experienced too short notice to be able to delegate the decision at a scheduled public meeting. This happened with the Better Care Fund when new guidance was announced in early August, requiring sign-off of plans by 19 September. Both the issuing of guidance and the submission deadline fell between formal HWB meetings.</li> </ul>

<b>Option 4A: Adding an urgent item to the already published agenda of the HWB meeting.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• All HWB members have the opportunity to be involved.</li> <li>• Meetings must be held face-to-face in public.</li> </ul>	<ul style="list-style-type: none"> <li>• Members may not have the opportunity to properly consider the urgent item.</li> <li>• The date of the scheduled meeting may not fit in with the urgent timescales.</li> </ul>	<ul style="list-style-type: none"> <li>• The Chair of the meeting must be of the opinion by reason of special circumstances (which shall be specified in the minutes) that the item should be considered as a matter of urgency. This is covered by Section 100B (4) of the Local Government Act 1972.</li> </ul>

3.3 Any of the options listed above for decision (A) could also be used for topics requiring urgent discussion or comment. Other possible options **for discussion or comment (section B)** by the HWB required at short notice are listed below. It would not be possible to reach any decision solely via one of the options for discussion or comment (B), listed below.

<b>Option 1B: Schedule an additional HWB meeting with the option of teleconferencing facilities for those unable to attend in person.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• All HWB members have the opportunity to be involved.</li> <li>• Meetings could be held in public.</li> <li>• More HWB members likely to be able to input.</li> </ul>	<ul style="list-style-type: none"> <li>• Practicalities of managing a meeting with some members face-to-face and others remotely could be challenging</li> <li>• Reliability of technology could be a risk.</li> <li>• Could be difficulty in finding appropriate meeting space, with sufficient technology facilities, at short notice.</li> <li>• It would not be possible to take any decisions, should it be necessary to do so.</li> </ul>	<ul style="list-style-type: none"> <li>• Using teleconferencing would rely on sufficient capability of HWB members' broadband connections to view papers or online material.</li> <li>• There could be no progression from discussion to decision with this option. If discussion leads to a decision being required, the HWB must revert to one of the options (A) listed at 3.2.</li> <li>• Legal position: If a decision was taken using this option, there is a risk of being open to legal challenge. In so far as the quorum for a meeting of the HWB board is achieved, there is a legal mandate for any decision contained within the agenda to be taken without the need for teleconferencing facilities for members who are, for any reason, unable to attend the meeting.</li> </ul>

<b>Option 2B: Hold a remote HWB meeting via teleconferencing facilities.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• All HWB members have the opportunity to be involved.</li> <li>• More HWB members likely to be able to input than Options 1 (B).</li> <li>• There would be no requirement to find a venue for the meeting at short</li> </ul>	<ul style="list-style-type: none"> <li>• Reliability of technology could be a risk.</li> <li>• Meetings would not be held in public, so it would not be possible to take any decisions, should it be necessary to do so.</li> </ul>	<ul style="list-style-type: none"> <li>• Using teleconferencing would rely on sufficient capability of HWB members' broadband connections to view papers or online material.</li> <li>• There could be no progression from discussion to decision with this option. If discussion leads to a decision being required, the HWB must revert to one of the options (A) listed at 3.2.</li> <li>• Legal position: It would not be possible to take decisions using this option. This option would prevent the public attending the meeting, which would contravene Section 100A of the Local Government Act 1972 which states that a meeting of a principal council shall be open to the public, except when in view of the nature of the business to be transacted or the nature of the proceedings confidential information would be disclosed to them</li> </ul>

notice. • No travel required.		in breach of the obligation of confidence. This option also goes against the rights to the public contained in Article 3 of the Council's Constitution.
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<b>Option 3B: Exchange information and comments through more proactive use of the HWB email group between formal meetings.</b>		
<b>Pros</b>	<b>Cons</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>All HWB members have the opportunity to be involved.</li> <li>There would be no requirement to find a venue for the meeting at short notice.</li> <li>No travel required.</li> </ul>	<ul style="list-style-type: none"> <li>It would not be possible to take any decisions, should it be necessary to do so.</li> </ul>	<ul style="list-style-type: none"> <li>Other platforms such as SharePoint could also be considered as a central place to share information and post discussions.</li> <li>There could be no progression from discussion to decision with this option. If discussion leads to a decision being required, the HWB must revert to one of the options (A) listed at 3.2.</li> <li>Legal position: It would not be possible to take decisions using this option. This option would prevent the public attending the meeting, which would contravene Section 100A of the Local Government Act 1972 which states that a meeting of a principal council <u>shall</u> be open to the public, except when in view of the nature of the business to be transacted or the nature of the proceedings confidential information would be disclosed to them in breach of the obligation of confidence. This option also goes against the rights to the public contained in Article 3 of the Council's Constitution.</li> </ul>

3.4 There is a further option for decisions, which could be considered as a last resort:

Paragraph 10 of Part 4.4(a) of the Council's Constitution also provides for the Chief Executive to take a decision which is normally reserved to committee or another officer, where he/she believes that the decision is urgent. This exercise of this power is subject to the following:

- That the County Council needs to respond quickly and failure to do so would not be in the public interest or would be likely to harm the interests of the Council and the public.
- Where possible, seeking the views of the following in respect of the proposed decision:
  - the Chair of the General Purposes Committee
  - the Chair and the Vice-Chair of the relevant committee with authority to take the decision
  - leader(s) of all groups
  - the Monitoring Officer

- Following the decision, a report will be submitted to the next available relevant committee meeting explaining:
  1. the decision;
  2. the reason for it; and
  3. why the decision was treated as a matter of urgency.

3.5 The HWB should consider whether different options are required for items requiring a decision and items requiring discussion, at short notice. As the paper highlights, the same option may not be suitable or most effective for both scenarios.

3.6 Proposed criteria to manage requests for information and/or papers to be considered by the HWB, in addition to its core duties, are attached at [Appendix A](#). These criteria have been shaped by discussion with the Health and Wellbeing Support Group and at a previous HWB Development Day held on 12 March 2014.

#### 4.0 **ALIGNMENT WITH THE CAMBRIDGESHIRE HEALTH AND WELLBEING STRATEGY**

4.1 This paper supports the Health and Wellbeing Strategy priority to work together effectively (Priority 6).

#### 5.0 **DECISION REQUIRED**

5.1 The HWB is asked to discuss the options above and agree:

- a) A system for managing items requiring a **decision** from the HWB at short notice.
- b) A system for managing items requiring **comment or discussion** from the HWB at short notice.

5.2 The HWB is asked to approve the criteria for prioritising HWB business in addition to its core functions.

Source Documents	Location
Cambridgeshire County Council Constitution	<a href="http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution">http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution</a>

## Appendix A: Criteria to prioritise additional HWB business

### *Role of the Health and Wellbeing Board*

- Prepare Joint Strategic Needs Assessment (JSNA)
- Produce a local health and wellbeing strategy
- Promote and provide advice, assistance and support for greater integration and partnership between health and social care services; including joint commissioning, integrated provision, and pooled budgets, where appropriate (as outlined Section 75 of National Health Service Act 2006)
- Respond to draft commissioning plans
- Provide advice to NHS England over the authorisation of CCGs
- Sign-off local plans for the implementation of the Better Care Fund
- Comment on CCG local Quality Premium Indicators
- Prepare a Pharmaceutical Needs Assessment

If a request has been made for the HWB to consider an agenda item outside of the core functions listed above, answer the questions below to determine how the request should be managed.

Question	Answer	Action
<b>Section A</b>	Information	The answer to this question may affect what happens to the item if it is rejected from the HWB work plan.
1. Is the item for information or does it require a decision?	Decision	
<b>Section B</b>	Yes	If the answer is “no” to all questions 2-4, reject item for HWB work plan and consider channelling elsewhere. This decision needs to be fed back to the individual/group who submitted the request.
<b>Does this issue...?</b>	No	
2. ...Significantly impact on the core duties of the Health and Wellbeing Board or on the Health and Wellbeing Strategy?	Yes	
3. ...Significantly affect the health and care system in Cambridgeshire?	No	
4. ...Represent a substantial risk to health and wellbeing in Cambridgeshire?	Yes	If “yes” to any questions in this section, go to Section C.
	No	
<b>Section C</b>	Yes	If “yes”, refer issue back to that/those organisations to work together on it. Consider requesting an information report on progress.
5. Is this an issue that mainly impacts on one or two organisations?		

	No	If “no”, go to Question 7.
6. Would the HWB duplicate discussions that could take place in another group?	Yes	If “yes”, consider referring the issue to another group for action.
	No	If “no”, add to HWB work plan.

### Where to consider directing rejected items

If for **information** only, consider:

- Forwarding to particular Members or officers who may have an interest
- Requesting for one or two HWB partner organisations to review and feedback to wider HWB
- If the item could feature in a ‘Board Briefing’ (specific policy briefings for HWB Board members)
- If the item could feature in a HWB Network Newsletter (newsletter for wider HWB Network audience)
- Inviting individual or group to present or have an information stand at a future Development Day or stakeholder event

If requiring a **decision**, consider:

- Whether the item should be referred to another group, such as:
  - Health Committee
  - Local Health Partnership
  - Healthwatch Cambridgeshire
  - Individual teams within Cambridgeshire County Council or other partner organisations
- Requesting for one or two HWB partner organisations to review and feedback to wider HWB