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| <b>DECISION-MAKER:</b>              | SHADOW HEALTH AND WELLBEING BOARD                               |
| <b>SUBJECT:</b>                     | PROPOSED CONTENT OF REGULATIONS FOR HEALTH AND WELLBEING BOARDS |
| <b>DATE OF DECISION:</b>            | 21 <sup>ST</sup> NOVEMBER 2012                                  |
| <b>REPORT OF:</b>                   | DIRECTOR OF PUBLIC HEALTH                                       |
| <b>STATEMENT OF CONFIDENTIALITY</b> |   |
| None.                               |   |

### **BRIEF SUMMARY**

The Department of Health has published a paper outlining the issues it intends to include in regulations governing the operation of health and wellbeing boards. This report summarises the implications. It covers:

- Establishment of sub-committees and delegation
- Voting restrictions
- Political proportionality requirements
- Disqualification for membership
- Application of a code of conduct and declarations of interest
- Application of transparency provisions.

### **RECOMMENDATIONS:**

- (i) That the report be noted.

### **REASONS FOR REPORT RECOMMENDATIONS**

1. To brief the shadow Health and Wellbeing Board on the regulatory framework within which it will be operating.

### **DETAIL (Including consultation carried out)**

2. The creation of health and wellbeing boards as committees of a local authority does not align with the current legislation dealing with the appointment of committees. To deal with this the Department of Health is planning to implement regulations governing the operation of health and wellbeing boards. It is planning to lay the regulations before Parliament in January 2013, and they will come into force on 1<sup>st</sup> April 2013. However the Department has published a summary setting out the proposed content of the regulations. The details are subject to drafting by lawyers and as such should be viewed as current intentions rather than the final position. The key points contained in the summary are set out in this report.
3. **Establishment of sub-committees and delegation**  
Unless a local authority directs otherwise, a committee can establish a sub-committee to discharge any of its functions. It is proposed that the regulations will enable health and wellbeing boards to be able to establish sub-committees and delegate functions to them. The regulations will not be

prescriptive and whether or not to establish sub-committees will be a matter for local determination.

4. **Voting restrictions**

Current legislation means that any members of a committee who are not members of the local authority should be treated as non-voting members, except in relation to a specified set of committees. The regulations are intending to remove this barrier and to enable local authorities to empower all key members of the board to vote alongside the elected representatives. This could also apply to any additional board members appointed in addition to the statutory membership set out in the Health and Social Care Act 2012.

5. **Political Proportionality**

Seats on local authority committees and sub-committees are normally allocated to reflect the prevailing political proportionality of the local authority. The Department of Health is proposing to disapply the provisions of the existing legislation requiring political balance in relation to health and wellbeing boards so that the question of political proportionality of health and wellbeing board membership is left to local determination.

6. **Disqualification for membership**

The current legislative framework states that any person who would be disqualified from being able to stand for election as a councillor shall be disqualified from being a member of a committee or sub-committee of a local authority. The Department of Health has indicated that its general policy intention is to retain the disqualifications, but the regulations will ensure the disqualifications do not apply to health and wellbeing boards in so far as they cover disqualifications in respect of members of the board:

- Holding any paid employment or office in the local authority
- Being the subject of a bankruptcy restrictions order or interim order
- Having been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine

7. **Application of a code of conduct and declarations of interest**

The Localism Act 2011 set out provisions on a new standards regime for local authorities, and included provisions in relation to codes of conduct and the disclosure of pecuniary interests. These will align to the seven “Nolan” principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The new regulations will apply these standards to health and wellbeing boards. However, the Department of Health is exploring whether a modification is necessary in relation to Clinical Commissioning Group

participation in discussions and decisions in which they could otherwise potentially be excluded.

**8. Application of transparency provisions**

There is a strict set of rules governing access to documents and meetings of local authority committees and sub-committees, and there are prescribed situations in which the public can be excluded from meetings and when local authorities can withhold documents from inspection. The regulations will not disapply or make any modifications to the existing provisions, which will apply to health and wellbeing boards unchanged.

**ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

9. None.

**RESOURCE IMPLICATIONS**

**Capital/Revenue**

10. None.

**Property/Other**

11. None.

**LEGAL IMPLICATIONS**

**Statutory Power to undertake the proposals in the report:**

12. Section 194 of the Health and Social Care Act 2012 requires that upper-tier local authorities establish a health and wellbeing board. Section 194 (12) enables regulations to be made in relation to the way the board operates as a committee of the council.

**Other Legal Implications:**

13. None.

**POLICY FRAMEWORK IMPLICATIONS**

14. None.

|                |         |  |      |              |
|----------------|---------|--|------|--------------|
| <b>AUTHOR:</b> | Name:   | Martin Day   | Tel: | 023 80917831 |
|                | E-mail: | <a href="mailto:Martin.day@southampton.gov.uk">Martin.day@southampton.gov.uk</a> |      |              |

**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices**

|    |      |
|----|------|
| 1. | None |
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**Documents In Members' Rooms**

|    |      |
|----|------|
| 1. | None |
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**Integrated Impact Assessment**

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| Do the implications/subject/recommendations in the report require an | No |
|--|----|

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|---|--|
| Integrated Impact Assessment to be carried out. |  |
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**Other Background Documents**

None

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)