

GOVERNANCE COMMITTEE

Tuesday, 19th March 2013
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public

Members of the Committee

Councillor David Furnell (Chair)
Councillor Satvir Kaur (Vice-Chair)
Councillor Mark Chaloner
Councillor Edward Daunt
Councillor John Hannides
Councillor John Inglis
Councillor Eamonn Keogh

Independent Members

Mr David Blake
Mr Geoff Wilkinson

Contacts

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PUBLIC INFORMATION

Role of the Governance Committee

Information regarding the role of the Committee's is contained in Part 2 (Articles) of the Council's Constitution.

[02 Part 2 - Articles](#)

It includes at least one Councillor from each of the political groups represented on the Council, and at least one independent person, without voting rights, who is not a Councillor or an Officer of the Council.

Public Representations

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Southampton City Council's Seven Priorities

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

Smoking policy – The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – Please turn off your mobile telephone whilst in the meeting.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2012/13

2012	2013
2 nd July	5 th February
25 th September	30 th April
10 th December	

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Governance Committee are contained in Part 3 of the Council's Constitution.

[03 - Part 3 - Responsibility for Functions](#)

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

DISCLOSURE OF INTEREST

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PERSONAL INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
 - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) 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 / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having a, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available via the Council's Website

1 APOLOGIES

To receive any apologies.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

3 STATEMENT FROM THE CHAIR

4 TRANSFER OF PUBLIC HEALTH FUNCTIONS TO SOUTHAMPTON CITY COUNCIL

Report of the Cabinet Member for Communities, outlining the operational arrangements for the transfer of the Public Health function, including the approval of the relevant delegations and associated matters, attached.

5 ESTABLISHMENT OF FORMAL HEALTH AND WELLBEING BOARD/NEW HEALTH SCRUTINY FUNCTION REGULATIONS

Report of the Head of Legal, HR and Democratic Services regarding the establishment of the formal Health and Wellbeing Board and new health scrutiny function regulations, attached

Monday, 11 March 2013

Head of Legal, HR and Democratic Services

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Agenda Item 4

DECISION-MAKER:	CABINET GOVERNANCE COMMITTEE COUNCIL		
SUBJECT:	TRANSFER OF PUBLIC HEALTH FUNCTIONS TO SOUTHAMPTON CITY COUNCIL		
DATE OF DECISION:	19 FEBRUARY 2013 19 MARCH 2013 20 MARCH 2013		
REPORT OF:	CABINET MEMBER FOR COMMUNITIES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Martin Day	Tel: 023 80917831
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STATEMENT OF CONFIDENTIALITY			
None			

BRIEF SUMMARY

The Health and Social Care Act 2012 transfers public health from the NHS to local authorities and a new body called Public Health England from April 2013. This report outlines the key issues for delivering local authority public health functions and sets out proposals for a scheme of delegation to the Director of Public Health that will be incorporated into the Constitution.

RECOMMENDATIONS:

CABINET

- (i) That the details of the local authority public health responsibilities set out in this report be noted;
- (ii) That the proposed scheme of delegation to the Director of Public Health set out in Appendix 1, be approved for submission to Council as an amendment to the Council Constitution
- (iii) That authority be delegated to the Director of Public Health, together with other directors of the Council as appropriate, to undertake any actions and make any arrangements necessary for the transfer of relevant public health functions to the Council

GOVERNANCE COMMITTEE

- (i) That Governance Committee advises of any comments or views it has upon the proposed scheme of delegation to the Director of Public Health set out in Appendix 1, to be incorporated into Part 10 of the Council Constitution in accordance with its governance role.

COUNCIL

- (i) That the proposed scheme of delegation to the Director of Public Health set out in Appendix 1, be approved and incorporated into Part 10 of the Council Constitution

REASONS FOR REPORT RECOMMENDATIONS

1. To enable new local authority public health functions to be delivered from 1st April 2013.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. None. Public Health becomes a local authority function from 1st April 2013, and it is necessary to make provision for the Authority to be able to discharge its new functions.

DETAIL (Including consultation carried out)

3. The Health and Social Care Act 2012 transfers a number of key public health responsibilities to local authorities. A significant amount of work has been undertaken by both the Council and the PCT to ensure the smooth transfer of staff and the seamless transition of the service and activities. A transition plan, approved both by the PCT and SCC Cabinet, was submitted to South Central Strategic Health Authority in March 2012 and is being implemented and monitored.
4. In preparation for the transfer, Executive responsibility for public health was allocated to the Cabinet Member for Communities at the Annual Meeting of the Council in May 2012. From April 2013, the Cabinet Member will be directly responsible and accountable for setting a strategic and policy direction for public health.
5. Professional and operational leadership will be the responsibility of the Director of Public Health, who will also be the Council's principal adviser on health and health-related issues. The Director of Public Health will lead a multi-disciplinary public health team with support staff who have transferred from NHS Southampton to continue to deliver public health functions and responsibilities. These functions include:
 - health surveillance and needs analysis
 - health protection (including emergency preparedness)
 - population health care advice (including effectiveness and priority setting)
 - commissioning health improvement services
 - collaborative programmes to tackle causes of ill health
6. The Director of Public Health will also link to, and have overall strategic leadership responsibility for, other public health responsibilities that are currently delivered elsewhere in the Council. Those linked specifically to the defined public health services include:
 - Drugs misuse, - SCC Health and Adult Social Care Strategic Commissioning Team (includes the Drug Action Team)
 - Domestic violence – SCC Community Safety Team

- Alcohol, mental health promotion – Joint (SCC/NHS) mental health commissioning team
 - Teenage pregnancy and children’s prevention and inclusion – SCC Children’s Services, Education and Learning Directorate.
7. Public Health will be a function that needs to input into and influence work across the Council. With the function being located in the People Directorate there will be strong connections to the work of children’s and adult social care, housing services, and port and environmental health. To ensure opportunities to tackle wider determinants of ill health are maximised, Public Health will work with the new Place Directorate to co-design and support work programmes that link health improvement with private sector housing, transport, community safety and economic development. Through the Communities portfolio, Public Health will contribute to work on tackling poverty, Families Matter and equalities. The overall public health programme will be shaped by the Joint Health and Well-being Strategy, and deliver improvement across a range of prioritised outcomes, drawn from the national Public Health Outcomes Framework, which has links to, and a number of shared outcomes, with the frameworks for adult social care and the NHS.

Transfer of Public Health Staff

8. To assist with the smooth transfer of the function, public health staff were relocated from PCT premises to the Civic Centre in March 2012. The transfer of employment of staff to the Council will be covered by a Transfer Scheme to be drafted by lawyers acting for the Department of Health. This is consistent with arrangements for other Public Health Services and staff across the country, who formally transfer to local authority service on 1st April 2013.

Public Health mandated and other commissioned or provided services

9. Local authorities will be specifically responsible for commissioning or providing the following services. Whilst those marked * are the mandated services in legislation, many of the others are required to make delivery of those mandated services a reality. It is essential that the Director of Public Health and his staff have the necessary authority and delegated powers to enable the following services to be delivered.
- NHS Health Check assessments*
 - The national child measurement programme*
 - Comprehensive sexual health services - including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention*
 - A new expanded local authority role for public health - health protection including assurance of infection control, incidents, outbreaks and emergencies with a specific leadership role for Emergency Planning, Resilience and Response*
 - Public health leadership, advice and support to NHS commissioners*
 - Tobacco and smoking cessation services

- Alcohol and drug misuse services
- Public health services for children and young people aged 5 to 19 (and in the longer term all public health services for children and young people)
- Interventions to tackle obesity, such as community lifestyle and weight management services
- Locally led nutrition initiatives
- Increasing levels of physical activity in the local population
- Public mental health services
- Dental public health services
- Accidental injury prevention
- Population level interventions to reduce and prevent birth defects
- Behavioural and lifestyle campaigns to prevent cancer and long-term conditions
- Local initiatives on workplace health
- Supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
- Local initiatives to reduce excess deaths as a result of seasonal mortality
- Public health aspects of promotion of community safety, violence prevention and response
- Public health aspects of local initiatives to tackle social exclusion
- Local initiatives that reduce public health impacts of environmental risks

Public health protection

10. From April 2013, the local authority will become responsible for all aspects of public health protection, supported by Public Health England. This will include community infection prevention and control. Other issues where public health may be called on would include chemical spills, natural disasters and the covert deliberate release of biological and chemical agents. The local authority will be expected to provide public health leadership in such circumstances and action to mobilise the NHS response.

Partnership with the Southampton CCG: The Local Public Health Advisory Service

11. One component of the new LA responsibilities for public health includes a Public Health Advice Service or “Core Offer” to Clinical Commissioning Groups (CCG). The elements of public health advice have been laid out in a memorandum of understanding that has been negotiated as part of the NHS transition into CCGs and new public health accountabilities and responsibilities. The Southampton memorandum of understanding covers two years to include the transition year 2012-13 and the first year of health act implementation in 2013-14.

Delegated powers required by the Director of Public Health

12. In order to undertake the activities described in this report, a series of delegations to the Director of Public Health are required. Appendix 1 sets out a list of the delegations required, and the Cabinet and Council are requested to endorse and adopt them so the Director of Public Health will be in a position to ensure the statutory duties can be undertaken.

RESOURCE IMPLICATIONS

Capital/Revenue

13. Public Health transfers to the local authority with a budget that is ring-fenced for a period of 3 years. With a number of public health functions transferring to Public Health England, it is not simply a case of transferring the existing PCT public health budget to the local authority. The Department of Health published the 2013/14 and 2014/15 budget allocations to enable local authorities to fulfil the public health function on 10th January 2013. The budget allocation announced for Southampton is £14.313m for 2013/14 and £15.050m for 2014/15. The final Public Health spending plan for 2013/14 is currently being compiled and from work completed to date is not expected to exceed the grant allocation announced. From April the budget will be subject to the standard council budget reporting and monitoring processes, and public health will be fully included in the budget setting process for 2014/15.
14. In addition to funding the Public Health Team and the Commissioned services, the grant is intended to fund any increase in the overheads and or support costs of the Council as a consequence of taking responsibility for Public Health. It has been estimated that the proportion of the grant intended for this purpose is £0.4m. Work is currently being undertaken to identify the nature and scope of these additional costs.
15. The grant is provided on the condition that quarterly returns to report progress on spend are made available to Public Health England to review. In addition, the Public Health outturn position, certified by the Chief Executive, is required to be provided in the same format as the quarterly reviews. The outturn grant spend will need to be subject to review by Audit.
16. The Public Health budget has been included within the budget to be agreed at Full Council on 13th February 2013.

Property/Other

17. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

18. The Health and Social Care Act 2012 transfers public health functions from PCTs to upper tier local authorities and Public Health England.

Other Legal Implications:

19. None.

POLICY FRAMEWORK IMPLICATIONS

20.. None.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	None
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SUPPORTING DOCUMENTATION

Appendices

1.	Proposed amendments to part 10 of the Council Constitution : Delegations to the Director of Public Health
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Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	/No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
None	

Proposed amendments to part 10 of the Council constitution: Delegations to the Director of Public Health

Delegations: Director of Public Health

Director of Public Health

1. To undertake overall responsibility for all of the local authority's duties to take steps to improve public health and to provide officers and elected members with appropriate advice, based on a patterns of local health need, of what works and potential returns on public health investment.
2. To undertake any of the Secretary of State's public health protection or health improvement functions delegated to local authorities, either by arrangement or under regulations, – including services mandated by regulations made under section 6C of the NHS Act 2006.
3. To plan for, and respond to, emergencies that present a risk to public health, in consultation with the council's emergency planning officer where appropriate.
4. To undertake local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders
5. To be responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, including making representations about licensing applications under sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the Health and Social Care 2012.
6. To be responsible for providing Healthy Start vitamins at any maternity or child health clinic commissioned by the council, in accordance with the Healthy Start and Welfare Food Regulations 2005 as amended by the Health and Social Care Act 2012.
7. To produce and update as necessary the Southampton Joint Strategic Needs Assessment in consultation with Southampton City Clinical Commissioning Group.
8. To lead on and co-ordinate the development, production, publication and updating of the Southampton Joint Health and Wellbeing Strategy in consultation with Southampton City Clinical Commissioning Group.
9. To develop and implement a system for collecting and analysis data to deliver the Public Health Outcomes Framework.
10. To produce the Director of Public Health's annual report.

11. To provide public health advice to NHS commissioners to help secure:
 - Commissioning strategies that meet the needs of vulnerable groups
 - The development of evidence-based care pathways and service specifications
 - Evidence-based prioritisation policies
 - Health needs audits and health equity audits and health impact assessments
12. To ensure delivery of the National Child Measurement Programme.
13. To secure the delivery of the NHS Health Check assessment.
14. To ensure appropriate access to sexual health services.
15. To ensure appropriate clinical governance arrangements are in place in respect of any clinical services commissioned, including sexual health and drug and alcohol services.
16. To maintain a particular focus on ensuring disadvantaged groups receive the attention they need, with the aim of reducing health inequalities.

Agenda Item 5

DECISION-MAKER:	GOVERNANCE COMMITTEE COUNCIL		
SUBJECT:	ESTABLISHMENT OF FORMAL HEALTH AND WELLBEING BOARD/HEALTH SCRUTINY FUNCTION		
DATE OF DECISION:	19 MARCH 2013 20MARCH 2013		
REPORT OF:	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Martin Day/Claire Heather	Tel: 023 8091 7831/ 023 8083 2412
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STATEMENT OF CONFIDENTIALITY			
None.			

BRIEF SUMMARY

The Health and Social Care Act 2012 requires upper tier local authorities to establish Health and Wellbeing Boards. Southampton has operated its Board in shadow form since November 2011 and is now required to formally establish this as a formal Committee of the Council from 1st April 2013. A review of the shadow boards' operation has been undertaken, and this report sets out proposals for revised terms of reference and other associated matters to meet the requirements of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ('the 2013 Regulations') requiring the formal establishment of the Board and to empower and support the work of the Board as it goes live from April 2013. It should be noted that, at the time of writing this report, further statutory and non statutory guidance and national legal advice on the composition and work of the Board is expected in due course and this report therefore includes appropriate delegations to the Head of Legal, HR and Democratic Services to amend the approved arrangements where necessary to bring the operation of the Board in line with such advice / guidance as it is received.

RECOMMENDATIONS:

GOVERNANCE COMMITTEE

- (i) To consider and comment on the proposed arrangements for the establishment and composition of the Health and Wellbeing Board, and
- (ii) To recommend the Terms of Reference of the Board to Council for inclusion in Part 3 of the Council's Constitution.

COUNCIL

- (i) To approve the Terms of Reference for the Health and Wellbeing Board as set out in Appendix 1 of the report for incorporation into Part 3 of the Council's Constitution;
- (ii) To determine the membership of the Board should comprise:
 - 5 Elected Members of Southampton City Council (to be appointed by the Leader of the Council having had due regard to the recommendations of the Shadow Health and Wellbeing Board)
 - Statutory Director for Public Health
 - Statutory Director for Adult and Children's Services (which will be the People Director from April 2013)
 - A representative from the Southampton Clinical Commissioning Group
 - A representative of Local Link (to be replaced by Healthwatch when the organisation is established in October 2013)
 - A representative from the NHS Commissioning Board's Wessex Area Team
- (iii) To note that, while Council shall determine the number of places allocated to Elected Members on the Board, the decision as to whom to appoint to such vacancies is an Executive Function to be determined by the Leader of the Council at the next available Cabinet Meeting.
- (iv) Having regard to recommendation (iii) above, to recommend that the Leader of the Council has regard to the recommendations of the Shadow Health and Wellbeing Board as to the preferred Elected Member composition of the Board as set out in paragraph 9 of the report when appointing Elected Members to vacancies on the Board.
- (v) To note that the Head of Legal, HR and Democratic Services, in accordance with powers delegated to him under the Constitution, intends to approve a Special Procedure Rule as set out in Appendix 2 of the report in relation to the administrative arrangements for the operation of the Board in accordance with the Regulations and following consultation with the Chair of the Health and Wellbeing Board;
- (vi) To determine that the powers to undertake Health Scrutiny conferred on the Council as set out in Part 4 of the 2013 Regulations be delegated to the Council's Health Overview and Scrutiny Panel until such time as the Council's arrangements for overview and scrutiny of health functions is reviewed at Annual Council.
- (vii) To delegate authority to the Head of Legal, HR and Democratic Services, following consultation with the Director of Public Health and the Chair of the Health and Wellbeing Board, to make any amendments to the Terms of Reference or other Constitutional Rules or Procedures that may be required to give effect to any new guidance or legal advice received in relation to the proper operation

of the Board and / or health scrutiny functions contained in the Regulations received after the date of this report.

REASONS FOR REPORT RECOMMENDATIONS

1. To formally establish a Health and Wellbeing Board in accordance with the requirements of the 2013 Regulations and to ensure that it has adequate powers and clearly determined governance arrangements to enable it to function effectively from 1st April 2013 and to support the promotion and advancement of health and wellbeing in the City.
2. To comply with the requirements of the 2013 Regulations in relation to health scrutiny and provide an interim arrangement for this up to the Annual General Meeting of the Council when it will be reviewed as part of the wider constitutional review.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Alternative options have not been considered due to the requirement to formally establish the Health and Wellbeing Board as a Committee of the Council under s.102 of the Local Government Act 1972 from 1st April 2013. The Council could decide to extend the remit of the Board to cover a wider function area but this is not recommended while legal and governance arrangements for such a Board are in their early stages. The remit of the Board can and should be reviewed annually in line with all other aspects of the Council's Constitution.

DETAIL (Including consultation carried out)

4. A shadow Health and Wellbeing Board was established by the Council in November 2011, and provided with terms of reference to enable it to develop and function in shadow form as an advisory rather than a decision making body. Over the time since then the Health and Social Care Bill has completed its passage through the Parliamentary processes and achieved Royal Assent.
5. In January 2013, the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ('the 2013 Regulations') completed the legal framework to enable local authorities to establish their Health and Wellbeing Boards as formal committees of the Council with decision making powers. These Regulations in relation to Health and Wellbeing Boards made provision for the disapplication and modification of certain enactments relating to the Local Authority Committees appointed under Section 102 of the Local Government Act 1972 insofar as they are applicable to a Health and Wellbeing Board established under Section 194 of the Health and Social Care Act 2012. Specifically:-
 - Health and Wellbeing Boards may establish sub-committees and delegate functions to them;
 - Voting restrictions have been removed so that non Elected Members of a Health and Wellbeing Board i.e. Clinical Commissioning Group Representatives, Healthwatch, and statutory Directors could vote alongside nominated Elected Member representatives of the Board;
 - Political proportionality requirements have been removed.

6. The Shadow Health and Wellbeing Board has reviewed the experience of its operations over the past 15 months, and in light of the legal frameworks and the practical guidance that has jointly been developed by the Local Government Association and Association of Democratic Services Officer to aid governance and constitutional issues have developed its recommendations to Council which are reflected in this report.
7. The function of encouraging integrated and close working is conferred directly on Health and Wellbeing Boards. The Health and Social Care Act 2012 also requires that Councils and Clinical Commissioning Groups discharge their functions of developing Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies through Health and Wellbeing Boards.

8. **Membership**

Section 194 (2) (a) of the Health and Social Care Act 2012 requires that the minimum membership of the Health and Wellbeing Board shall be:

- At least one Councillor (who must be 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 local Healthwatch, (nominated by Healthwatch)
- A representative of each Clinical Commissioning Group operating in the area, (nominated by the Clinical Commissioning Group)
- Such other persons as the Council considers appropriate

Council may determine the number of Elected Member position that will be available on the Board; however the appointment of members to the Board is an Executive function that falls to the Leader of the Council to determine. The Shadow Health and Wellbeing Board have recommended that the membership of the Board comprise those individuals / bodies set out in paragraph 9 below. The Leader is asked to have regard to the views and recommendations from the Board in making his appointments however it should be noted that he is not bound to follow the recommendations of the Shadow Health and Wellbeing Board in making such appointments.

9. The Shadow Health and Wellbeing Board is recommending that membership remains the same as during the shadow year, which comprises the following:-
 - Cabinet Member for Communities
 - Cabinet Member for Adult Social Care
 - Cabinet Member for Children's Services
 - 2 Elected Opposition Members
 - Statutory Director for Public Health
 - Statutory Director for Adult and Children's Services (which will be the People Director from April 2013)
 - A representative from the Southampton Clinical Commissioning Group

- A representative of Local Link (to be replaced by Healthwatch when the organisation is established in October 2013)
- A representative from the NHS Commissioning Board's Wessex Area Team

Voting

The Local Government Act 1972 does not allow officers to be members of Local Authority Committees. Regulation 5(1) of the 2013 Regulations removes this restriction in relation to Health and Wellbeing Boards by disapplying Section 104(1) of the 1972 Act to enable the Local Authority Directors specified in the 2012 Act to become members of the Board. Regulation 6 of the 2013 Regulations modifies the Local Government and Housing Act 1989 (Section 13(1)) to enable all members of the Board or their sub-committees to vote unless the Council decides otherwise.

The Shadow Health and Wellbeing Board is recommending that the voting is as follows:-

- Decisions will normally be reached on a consensus basis, but in the event of any dispute requiring a formal vote then each member of the Board shall be entitled to a single vote with the Chair having the casting vote. Decisions in such circumstances will be passed by simple majority.

11. **Quorum**

Acknowledging the cross agency representation of the Health and Wellbeing Board the Shadow Health and Wellbeing Board is recommending that the quorum is as follows:-

- The quorum of the Board shall be 3 members, who will include at least one Elected Member, a member from Health and the Local Link member who will be replaced by Healthwatch following their establishment in October 2013.

12. **Resignation and replacements**

The Shadow Health and Wellbeing Board is recommending that resignation and replacements (including substitution for individual meetings by way of resignation and replacement) is specifically provided for as follows:-

- In the event that a member of the Health and Wellbeing Board resigns, the Head of Legal, HR and Democratic Services shall be the Proper Officer for the purposes of appointing a named replacement member in accordance with the wishes of the resigning member and / or the body that they represent.

13. **Codes of Conduct and Conflicts of Interest**

The Regulations under Section 194 of the Health and Social Care Act 2012 do not modify or disapply any legislation relating to codes of conduct and conflicts of interest, therefore the Local Government Acts 1972, 2000 and the Localism Act 2011 will apply to Health and Wellbeing Boards. Members of the Board will be required to comply with the Council's Code of Conduct for Members in relation to their role as members of the Health and Wellbeing Board regardless of their status as Elected Members, officers or representatives of a third party organisation.

14. **Transparency and Openness**

The 2013 Regulations do not modify legislation in relation to transparency requirements in relation to Health and Wellbeing Boards. This means that they will be subject to the same requirements of openness and transparency as any other committee of the Council.

15. The Board will also be subject to the same requirements as any other Council committee. In particular, the Local Government Act 1972 imposes requirements in relation to Access to Information and making copies of agenda and reports of meetings open to the inspection by the public and the Freedom of Information Act 2000 provides a general right of access to information held by public authorities. The Equality Act 2010 requires specified public bodies, when exercising functions to have due regard to eliminating conduct prohibited by the Act and advancing equality of opportunity and fostering good relations between people who share protected characteristics and those who do not .

16. **Accountability and relationships between Health and Wellbeing Boards, Other Council Structures and Partnerships**

The discharge of functions by Health and Wellbeing Boards fall within the remit of Scrutiny but the core functions are not subject to call in as they are, predominantly, not Executive functions. There will need to be relationships between Health and Wellbeing Boards, Scrutiny Committee, particularly Health Overview Scrutiny and local Link which will be Local Healthwatch when established. Discussions on these relationships will take place to ensure understanding between the three elements to ensure clarity and mutual understanding of roles and responsibilities. The role of Scrutiny in relation to the review of health functions will be considered in the annual report on changes to the Constitution presented to Council at its AGM in May.

17. The 2013 Regulations amend the current health scrutiny legislation to confer the power to undertake health scrutiny on the Council rather than directly to a Health Scrutiny Committee. As a result, in order for health scrutiny to continue to be carried out by the existing Health Overview and Scrutiny Panel (HOSP), the Council is required to delegate responsibility to the Panel (recommendation (vi)).

18. The legislation as drafted and existing guidance is not clear as to whether the power to refer to the Secretary of State can also be delegated to the HOSP or remains a function of the Council. Further guidance is expected before the end of March and the position will be clarified at Annual Council.

19. Relationships with local Healthwatch, the NHS Commissioning Board and Clinical Commissioning Groups will be facilitated by their representation on the Board. It will be important to ensure that the priorities in the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy are aligned to other Council and Local NHS strategies and those of other strategic bodies for the area, including those relating to Children's Services, Safeguarding Boards, Community Safety Partnerships and other Local Enterprise Partnerships and others.

RESOURCE IMPLICATIONS

Capital/Revenue

20. The cost of implementation of the formal Health and Wellbeing Board will be contained within existing budgets.

Property/Other

21. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

22. Section 194 of the Health and Social Care Act 2012 requires that every upper-tier Local Authority establish a Health and Wellbeing Board by 1st April 2013. In order to fit Health and Wellbeing Boards within Local Authority Structures, Section 194(11) provides that the Board is a Committee of the Local Authority which established it and, for the purposes of any enactment, is to be treated as if it were a Committee appointed by that Local Authority under Section 102 of the Local Government Act 1972.

Other Legal Implications:

23. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 completed the legal framework to enable local authorities to establish their Health and Wellbeing Boards. These regulations in relation to Health and Wellbeing Boards make provision for the disapplication and modification of certain enactments relating to the Local Authority Committees appointed under Section 102 of the Local Government Act 1972 insofar as they applicable to a Health and Wellbeing Board established under Section 194 of the Health and Social Care Act 2012.

POLICY FRAMEWORK IMPLICATIONS

24. The proposals in this report are consistent with and not contrary to any aspect of the Council's approved Policy Framework.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	All
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SUPPORTING DOCUMENTATION

Appendices

1.	Terms of Reference for Formal Health and Wellbeing Board
2.	Draft Council Special Procedure Rule (for information)

Documents In Members' Rooms

1.	None.
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

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

1.	None.	
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PROPOSED TERMS OF REFERENCE FOR HEALTH AND WELLBEING BOARD

GENERAL

- a) The Health and Wellbeing Board is a committee of the Council under S102 (1) of the Local Government Act 1972.
- b) The Council has arranged under S101 of that Act for the discharge by the Board of such functions as are set out in the terms of reference set out below.
- c) Certain functions under S196 (2) of the Health and Social Care Act 2012 may be delegated by the Board to officers. Full details may be found in the Officer's Scheme of Delegation which may be obtained from the Democratic Services Manager. Other matters falling within these Terms of Reference may be delegated to a Sub Committee of the Board.
- d) Where a function or matter within the Board's competence has been delegated to an officer or a sub-committee, the Board may exercise that function/matter concurrently with the officer to whom it has been delegated.
- e) The exercise of any function or matter within the Council's competencies always subject to any relevant requirement of the Council's Constitution including any Special Procedure and Protocol drawn up and approved by the Senior Manager: Legal, HR and Democratic Services in pursuance of Council Procedure Rule 26.2. A Special Procedure giving effect to The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 has been approved in accordance with Council Procedure Rule 26.2. The Special Procedure disapplies the provisions of the Local Government and Housing Act 1989 relating to the political proportionality on committees and sub-committees and providing that a person who is a member of the Board shall not be treated as a non-voting member unless the full Council directs otherwise, together with other voting and ancillary matters has been approved in accordance with Council Procedure Rule 26.2.

TERMS OF REFERENCE

1. Section 194 (2) (a) of the Health and Social Care Act 2012 requires that the minimum membership of the Health and Wellbeing Board shall be:
 - At least one Councillor (who must be 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 Local Link (to be replaced by Healthwatch when the organisation is established in October 2013)

- A representative of each Clinical Commissioning Group operating in the area, nominated by the Clinical Commissioning Group
- Such other persons as the Council considers appropriate.

The actual membership and composition of the Board will be determined by Council and reviewed on an annual basis.

The Board shall:

2. Appoint such sub-committees, working groups or time limited groups as it considers appropriate to fulfil the Health and Wellbeing functions on behalf of the Council.
3. For the purpose of advancing the health and wellbeing of the people in its area; encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner.
4. Provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under S75 of the National Health Service Act 2006 in connection with the provision of such services.
5. Encourage persons who arrange for the provision of any health related services in its areas to work closely with the Health and Wellbeing Board.
6. Encourage persons who arrange for the provision of any health or social care services in its areas and persons who arrange for the provision of any health related services in its area to work closely together.
7. Exercise the functions of a Local Authority and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007.
8. Exercise any functions that are exercisable by the Authority to promote or advance health and wellbeing not otherwise reserved to Council or the Executive.
9. Provide opinion on whether the Local Authority is discharging its duty under section 116B of the 2007 Act.
10. The functions referred to at 8 above do not apply to the functions of the Authority by virtue of Section 244 of the National Health Service Act 2006.

HEALTH & WELLBEING BOARD

SPECIAL PROCEDURE FOR OPERATION OF, AND CONSIDERATION OF MATTERS BEFORE, THE BOARD

This procedure is approved in accordance with Council Procedure Rule 26(2) and shall apply to the establishment, composition and operation of the Board together with consideration of all business to be transacted by the Board at any formal (scheduled or special / urgent) decision making meeting of the Board.

This procedure was approved by the Head of Legal, HR and Democratic Services on xxx March 2013 and shall continue in force until such time as it has been amended or revoked in accordance with the Constitution of Southampton City Council.

Membership and Voting:

1. The Membership of the Board shall comprise:
 - 5 Elected Members of Southampton City Council (to be appointed by the Leader of the Council)
 - Statutory Director for Public Health
 - Statutory Director for Adult and Children's Services (which will be the People's Director from April 2013)
 - A representative from the Southampton Clinical Commissioning Group
 - A representative of Local Link (to be replaced by Healthwatch when the organisation is established in October 2013)
 - A representative from the NHS Commissioning Board's Wessex Area Team
2. The Quorum for any meeting of the Board shall not be less than 3 members of the Board, one of which must be an Elected Member, the representative of Local Link to be replaced by Local Healthwatch when established and a representative from Health.
3. Resignation and Replacements (substitutions) shall operate as follows:
 - a. Any Member who is unable to attend a meeting of the Board shall either:
 - i. offer their apologies by giving notice of their intention not to attend to the Democratic Services Manager prior to the commencement of the meeting (in writing or by telephone), or
 - ii. by resigning from the Board (in writing by letter or email) and nominating a replacement member for the duration of the meeting.
 - iii. Any member resigning from a meeting shall be re-appointed to the Board automatically by the Democratic

Services Manager prior to the next scheduled meeting of the Board unless they are notified by that member that any resignation is permanent.

- b. Any replacement member nominated in accordance with a (ii) above shall be of the same category of membership / represent the same body as the member resigning.
4. No business shall be transacted by the Board unless included on the Agenda in accordance with the requirements of the Council's Constitution.
5. All business before the Board requiring a decision shall be determined by consensus wherever possible. If a matter cannot be determined by consensus, or if any member of the Board requires a recorded vote in relation to any business before the Board, any such vote shall be determined by simple majority of those present and voting. Each member of the Board present shall be entitled to a single vote. In the event that the votes cast by the Board are equal the person chairing the meeting shall have a second, casting vote.
6. The following Procedure Rules shall not apply to any meeting of the Board:
 - a. Council Procedure Rules: 2, 4, 8, 9.6, 10.8, 11.1, 12, 13, 14, 15, 16, 17, 19, 25.1 and 25.2.
 - b. Executive Procedure Rules (to the extent that the Board is considering any matter that may be in whole or in part an Executive Function or linked to an Executive Function but falls within the remit of the Board by virtue of Primary and Secondary legislation).