



Open Report on behalf of David Coleman, Monitoring Officer

Report to:	County Council
Date:	27 September 2022
Subject:	Council Constitution - Changes to the Lincolnshire Health and Wellbeing Board Terms of Reference

Summary:

In May 2021, the Council agreed changes to the Terms of Reference for the Lincolnshire Health and Wellbeing Board (HWB), to enable the Board to incorporate the functions of the interim Integrated Care Partnership (ICP). As a consequence, the Council's Constitution was updated.

From 1 July 2022, the Health and Care Act 2022 require the Integrated Care Board (ICB) and the County Council, to establish the ICP as a statutory joint committee, therefore the HWB as a committee of the council is not able to take on the responsibilities of the ICP. At the same time the Health and Care Act requires the HWB to play a formal role as a consultee in certain matter within the remit of the ICB.

As a consequence, the HWB Terms of Reference need to be updated to reflect the introduction of the ICP and the new roles of the HWB

Approval is now being sought from Council to the proposed amendments to enable the necessary changes to be made in the Constitution.

Recommendation(s):

That the Council:

1. Approves the proposal put forward by the Lincolnshire Health and Wellbeing Board to change the terms of reference of the Health and Wellbeing Board:
 - a. to remove reference to the functions of the Integrated Care System Partnership
 - b. to remove reference to the Lincolnshire NHS Clinical Commissioning Group, replacing it with reference to the Integrated Care Board
 - c. to take account of the Board's role as a consultee in a number of the statutory processes associated with the operations of the Lincolnshire NHS Integrated Care Board

2. Approves the amendments to the Constitution set out in Appendix B

1. Background

Under section 194 of the Health and Social Care Act 2012, all upper tier and unitary authorities are required to have a Health and Wellbeing Board (HWB) for their authority's area. In 2013, the Lincolnshire HWB was formally established as a committee of Lincolnshire County Council. The functions of the HWB are set out in sections 195 and 196 of the Act as follows:

- To encourage persons who arrange for the provision of any health and social care services in the area to work in an integrated manner.
- To provide advice, assistance or other support, as it thinks appropriate, for the purpose of encouraging joint commissioning.
- To prepare and publish a Joint Strategic Needs Assessment (JSNA) on the local population.
- To prepare and publish a Joint Health and Wellbeing Strategy (JHWS).

In addition to the statutory functions listed above, the Act also makes provision for the local authority to delegate any powers or functions exercisable by the authority to the HWB.

In May 2021, and in anticipation of the implementation of Integrated Care System (ICS) arrangements, the Council approved proposals for the HWB to incorporate the functions of the interim Integrated Care Partnership (ICP) to support the developing landscape of integration. As a result, changes were made to the Council's Constitution, and the HWB formally adopted the updated Terms of Reference at its AGM on 3 June 2021.

Following Royal Assent for the Health and Care Act 2022, on 28 April 2022, ICS arrangements were formally established from 1 July 2022. Whilst the new Health and Care Act does not change the core functions of the HWB, it does embed the HWB, principally as a consultee, in a number of the statutory processes associated with the operations of the new Lincolnshire NHS Integrated Care Board (ICB) which replaces the Clinical Commissioning Groups (CCG) taking on those and additional responsibilities.

The Act also requires the County Council and the newly formed ICB to jointly establish an ICP as a statutory joint committee of the two bodies. The ICP will have a statutory responsibility to create an Integrated Care Strategy for Lincolnshire. Since the HWB is a committee of the County Council, it has a fundamentally different legal status to the ICP, as a statutory joint committee. Furthermore, the ICP has statutory responsibility for the production of an Integrated Care Strategy for the area and cannot pass that responsibility to another body. Therefore, the HWB cannot fulfil the role of an ICP.

Lincolnshire is only one of four coterminous ICS systems nationally, so there is an opportunity to benefit from this to achieve Lincolnshire's shared ambition. Although, at the level of the Act, the different roles of the ICP and HWB can be distinguished, the coterminous boundary in our area means that it is important to fully define the practical

differences between the ICP and HWB in order to manage the clear risks of duplication. Wherever possible, the HWB and ICP will look to align meeting times and have mirrored memberships to bring cohesion to the two to bring clarity across the system.

To ensure a focus on reducing inequalities for the population of Lincolnshire, and to provide a greater focus on wider determinants of health the HWB has reviewed its membership. The outcome of this is membership is being offered to a representative of the Higher Education (HE) sector and the Greater Lincolnshire Local Enterprise Partnership (GLLEP). These will be HWB Associate Memberships (NB. Associated members will not have voting rights at HWB meetings). Opening up membership to HE and the GLLEP supports the collective ambition of preventing and reducing health inequalities by focusing on wider social, economic and health priorities.

Amended Terms of Reference and Procedural Rules, along with Board Member's Roles and Responsibilities, and the proposed revisions, are provided in Appendix A. The HWB endorsed the updated Terms of Reference on 14 June 2022. Some of the main Terms of Reference of the HWB are set out in the Council's Constitution. If the Council approves the proposed changes, the Council's Constitution will require amendment. Necessary amendments for Council approval are set out in Appendix B.

Membership shown in Appendix B is limited to core membership. It does not include the Associated Members. The decision on whether or not to allow such attendance at its meetings is a matter for the HWB itself.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

As a formal change to the Council's governance arrangements, the proposals are not considered to have an adverse impact on people who share a protected characteristic compared to those who do not.

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

As a formal change to the Council's governance arrangements, the proposals are not considered to have any implications for the JSNA and JHWS. Although the inclusion of the additional members will enable closer working on the wider determinants of health and wellbeing.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including

anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

As a formal change to the Council's governance arrangements, the proposals are not considered to have any implications for crime and disorder. Although the inclusion of the additional members will enable closer working on wider determinants of health and wellbeing which also impact on crime and disorder.

3. Conclusion

The Council is to approve the changes to the Lincolnshire Health and Wellbeing Board and agree for the appropriate updates to be made to the Constitution.

4. Legal Comments:

The Report sets out amendments to the Constitution that are necessary to ensure that the roles of the Health and Wellbeing Board and the Integrated Care Partnership reflect the legal requirements set out in the Health and Care Act 2022.

Approval of changes to the Constitution is a matter reserved to full Council.

5. Resource Comments:

It can be confirmed that there are no financial implications regarding the proposed changes to the Lincolnshire Health and Wellbeing Board.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This decision has not been considered by a Scrutiny Committee.

d) Risks and Impact Analysis

As set out in the report

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Revised Terms of Reference for the Lincolnshire Health and Wellbeing Board (June 2022)
Appendix B	Extract from Part 2 of the Constitution – pages 2/44 – 2/46 with proposed amendments

8. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Health and Social Care Act (2012)	https://www.legislation.gov.uk/ukpga/2012/7/contents/enacted
Health and Care Act (2022)	https://www.legislation.gov.uk/ukpga/2022/31/contents/enacted
Council Constitution – Changes to the Lincolnshire Health and Wellbeing Board Terms of Reference and membership to incorporate the functions of the Integrated Care System Partnership Board	https://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=120&MIId=5731&Ver=4

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