

HEALTH AND WELLBEING BOARD			
<b>Report Title</b>	Terms of Reference and membership		
<b>Contributors</b>	Head of Strategy and Performance, Community Services Directorate	Item No.	4
<b>Class</b>	Part 1	Date:	30 May 2013

## 1. Purpose

- 1.1 This report presents the Health and Wellbeing Board with its Terms of Reference and procedures as a committee of the Council.
- 1.2 This report also provides information on the statutory requirements for membership of the Health and Wellbeing Board and the means by which membership of the Board can be changed. The report proposes additional members to join the Health and Wellbeing Board.
- 1.3 The report includes the Council's proposals for membership and voting rights for consideration by the Health and Wellbeing Board.

## 2. Recommendations

- 2.1 Members of the Health and Wellbeing Board are invited to:
  - note the Health and Wellbeing Board's Terms of Reference, the Council's procedure rules and the particular provisions which apply to the Health and Wellbeing Board; (see paragraphs 4 and 8)
  - note the means by which membership of the Board may be amended or changed; (see paragraph 5)
  - consider the Council's proposals on membership and which members will have voting rights; (see paragraphs 5 and 7)
  - decide whether there are any other organisations or individuals who ought to be included in the membership of the Health and Wellbeing Board (see paragraph 6).

## 3. Policy Context

- 3.1 The activity of the Health and Wellbeing Board is focussed on delivering the strategic vision for Lewisham as established in *Shaping our future* – Lewisham's Sustainable Community Strategy and in Lewisham's Health and Wellbeing Strategy.
- 3.2 The work of the Board directly contributes to *Shaping our future's* priority outcome that communities in Lewisham should be *Healthy, active and enjoyable - where people can actively participate in maintaining and improving their health and wellbeing.*

#### **4. Terms of Reference**

4.1 The Council's constitution establishes the Terms of Reference for the Health and Wellbeing Board. They are as follows:

To carry out statutory functions of the Health and Wellbeing Board under the Health and Social Care Act 2012, as amended from time to time, regulations thereunder and all other relevant statutory provision. Activities of the Health and Wellbeing Board include, but may not be limited to, the following:-

- To encourage persons who arrange for the provision of any health or social services in the area to work in an integrated manner, for the purpose of advancing the health and wellbeing of the area
- To provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 NHS Act 2006 in connection with the provision of such services
- To encourage persons who arrange for the provision of health-related services in its area to work closely with the Health and Wellbeing Board
- To prepare joint strategic needs assessments (as set out in Section 116 Local Government Public Involvement in Health Act 2007), in respect of which the Council and each partner clinical commissioning group will prepare a strategy for meeting the needs included in the assessment by the exercise of the functions of the Council, the NHS Commissioning Board or the clinical commissioning groups
- To give its opinion to the Council on whether the Council is discharging its duty to have regard to any joint strategic needs assessment and any joint health and wellbeing strategy prepared in the exercise of its functions
- To exercise any Council function which the Council delegates to the Health and Wellbeing Board, save that it may not exercise the Council's functions under Section 244 NHS Act 2006 (statutory consultee in relation to substantial variations in service etc)

#### **5. Membership**

5.1 The Health and Social Care Act 2012 establishes a duty on local authorities to convene Health and Wellbeing Boards for their areas.

5.2 The Act specifies that the Board's membership must, as a minimum, include:

- a) at least one Councillor of the local authority who is nominated by the Mayor (and may include the Mayor);
- b) the Council's Director of Adult Services;

- c) the Council's Director of Children's Services;
- d) the Council's Director of Public Health;
- e) a representative of the Local Healthwatch organisation for the area;
- f) a representative of each relevant clinical commissioning group; and
- g) such other persons or representatives of such other persons as the Council thinks appropriate.

5.3 This means that the Mayor can nominate whichever Councillors he chooses (under (a) above) and the Council must appoint them. It also means that the Council can appoint whichever people, Councillors or otherwise, it chooses under (g), subject only to the Council's own constitutional requirements.

5.4 In addition, the Board can appoint such other persons as it considers appropriate.

5.5 After the Board is established, the local authority must consult the Health and Wellbeing Board before the Council may make another appointment. This does not apply to Mayoral nominations.

5.6 At the Council AGM held on 20<sup>th</sup> March, the Mayor reported that he was appointing himself and Cllr Chris Best as members of the Health and Wellbeing Board.

5.7 The Council also approved the membership of the Health and Wellbeing Board as follows:

The Mayor and such councillors as he may appoint	Sir Steve Bullock Cllr. Chris Best
The Council's Executive Director for Community Services	Aileen Buckton
The Council's Executive Director for Children & Young People	Frankie Sulke
The Council's Director of Public Health	Danny Ruta
1 representative of the Local Healthwatch Organisation for the area	TBC
1 representative of the Lewisham Clinical Commissioning Group	Helen Tattersfield
Such other persons or representatives of such other persons as the Council thinks appropriate. This will normally include 2 representatives of the voluntary sector	TBC

- 5.8 Where nominations for membership have yet to be received, specifically in relation to the two representatives of the voluntary sector, it will be reported to the next Council meeting for formal appointment.

## **6. Additional nominations for membership**

- 6.1 At a planning workshop held with the Board's members on 18 March 2013, it was proposed that Lewisham Healthcare Trust, Lewisham's Local Medical Committee and Voluntary Action Lewisham ought to be represented on the Board.
- 6.2 NHS England must appoint a representative for the purpose of participating in the preparation of Joint Strategic Needs Assessments and the development of joint Health & Wellbeing Strategies, and to join the Health & Wellbeing Board when it is considering a matter relating to the exercise, or proposed exercise of the NHS Commissioning Board's commissioning functions in relation to the area, if it is requested to do so by the Board. NHS England has indicated that it would like to attend Lewisham's Health and Wellbeing Board meetings and has identified Jane Clegg, Director of Nursing for South London as its nominated representative.
- 6.3 The Council, in the Constitution, has made provision that two representatives of the voluntary sector will be appointed to the Board with voting rights. These representatives will be appointed by the Council.
- 6.3 Going forward, members of the Board will need to establish whether specific sectors or organisations are best represented at the Board meeting through membership, occasional representation or through involvement in one of the Board's sub-groups.

## **7. Voting rights and code of conduct**

- 7.1 Regulation 6 of the Health and Social Care Act regulations modifies the Local Government and Housing Act 1989 (section 13(1)) to enable all members of the Health and Wellbeing Boards or their sub-committees to vote unless the Council decides otherwise. This means that the Council is free to decide, in consultation with the Health and Wellbeing Board, which members of the Board should be voting members.
- 7.2 The Council has proposed that its officers not be entitled to vote.
- 7.3 In addition, the Council has proposed that where an organisation (Clinical Commissioning Group, Healthwatch, or otherwise) appoints an employee to the Health and Wellbeing Board, that employee will not be allowed to vote. This rule will not apply to representatives of the voluntary sector appointed by the Council.

- 7.4 All members of Lewisham's Health and Wellbeing Board will be governed by the local authority's code of conduct.
- 7.5 Lewisham Council's code of conduct has been included as Appendix 1 This code of conduct contains the provisions the Council considers appropriate in respect of the registration and disclosure of pecuniary and other interests. It requires members to make an entry to the members' register of interests and establishes a duty on members to keep this information up-to-date.
- 7.6 Further information on which interests to declare, how and when to do so will be provided to Board members by the Council's Governance department.

## **8. Council procedure and ways of working**

- 8.1 As a Council committee, the Health and Wellbeing Board is governed by the Council procedure rules as set out in the Council's constitution save to the extent that they are particularly disapplied by regulation.
- 8.2 All provisions relating to notice of meetings, minutes, agendas, record of attendance, admission of the press and public, adjournments, disturbance, vacancies, as well as the general rules of debate set out in the Council's Constitution, will apply to the Health and Wellbeing Board. The Health and Wellbeing Board is subject to the same equalities duties as the Council.
- 8.3 As outlined in the Constitution, the following particular provisions apply to the Council's Health and Wellbeing Board.
- Its membership does not have to reflect the political composition of the Council.
  - Non-elected members of HWB are entitled to vote unless the Council decides to the contrary. This has been set out in paragraph 7.
  - Quorum - The quorum for meetings of the HWB shall be as follows:-
    - 3 voting members of the HWB, at least one of whom must be a councillor or the Mayor and one must be a representative of the Clinical Commissioning Group.
  - Decisions – Decisions shall be taken at the HWB by a majority of those present, entitled to vote and voting.
  - Chair and Vice Chair – The Chair of the HWB shall be the Mayor. The Vice-Chair of the HWB shall be elected at the first meeting of the HWB in each year.

8.4 The Constitution does not provide for Board members to send substitutes to represent them.

## **9. Financial implications**

9.1 There are no direct financial implications arising from this report or its recommendations.

## **10. Legal implications**

10.1 The legal requirements relating to the establishment of the Health and Wellbeing Board are reflected in the body of the report. The Board is established as a committee of the local authority in accordance with section 102 of the Local Government Act 1972, subject only to the exceptional provisions set out above.

10.2 The functions of the Health and Wellbeing Board are broadly to conduct the Joint Strategic Needs Assessment and to agree the joint health and wellbeing strategy.

10.3 The Council's decision in relation to non-voting members of the Board is subject to consultation with the Board. The Council's Constitution reflects this.

10.4 Section 149 of the Equality Act 2010 imposes a public sector equality duty of local authorities. In conducting its business the Board must have regard to this duty.

10.5 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

10.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

10.7 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

- 10.8 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 10.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 10.10 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 10.11 Members of the Board are reminded that under Section 195 Health and Social Care Act 2012, health and wellbeing boards are under a duty to encourage integrated working between the persons who arrange for health and social care services in the area.

## **11. Equalities implications**

- 11.1 There are no specific equalities implications arising from this report or its recommendations.

## **12. Crime and disorder implications**

- 12.1 There are no specific crime and disorder implications arising from this report or its recommendations.

### **13. Environmental implications**

- 13.1 There are no specific environmental implications arising from this report or its recommendations.

#### **Background documents**

None

If there are any queries on this report please contact Edward Knowles, Service Manager – Strategy, Community Services, London Borough of Lewisham on 0208 314 9579 or by e-mail at [edward.knowles@lewisham.gov.uk](mailto:edward.knowles@lewisham.gov.uk)

Appendix 1

**LONDON BOROUGH  
OF  
LEWISHAM**

**MEMBER CODE  
OF  
CONDUCT**

# LONDON BOROUGH OF LEWISHAM

## MEMBER CODE OF CONDUCT

### 1. Introduction

1.1 This Code sets out the principles and standards of behaviour for all members of the London Borough of Lewisham, both elected and co-opted members. It is designed to demonstrate the Council's commitment to the highest standards of ethical behaviour. Certain minimum requirements are set out in law and these are all included in this Code. However, the Council has put in place some elements of this Code by exercising its own local discretion to do so. Those elements which the Council has included under this discretionary power are contained within text boxes below.

1.2 For the avoidance of doubt, when the term "members" is used in this Code, or any appendices or protocols under it, it means the Mayor, elected and co-opted members, including non-elected members of the Health and Wellbeing Board.

### 2 Principles

2.1 Members are required to comply with the following principles in their capacity as a member:-

- SELFLESSNESS
- INTEGRITY
- OBJECTIVITY
- ACCOUNTABILITY
- OPENNESS
- HONESTY
- LEADERSHIP

- INDEPENDENT JUDGEMENT
- RESPECT
- STEWARDSHIP

2.2 Accordingly the following requirements apply:-

- 1) Members must act solely in the public interest. They must never improperly confer an advantage or disadvantage on any person nor seek to do so. They must not act to gain financial or other benefit for themselves, their family, friends or close associates.
- 2) Members must not place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a member.

LBL requires that members must not act to place themselves in a position where their integrity might reasonably be questioned and

should on all occasions avoid situations which may create the impression of improper behaviour

- 3) Members should make decisions on merit, including when awarding contracts, making appointments, or recommending individuals for rewards or benefits.
- 4) Members are accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their office.
- 5) Members should be as open as possible about their decisions and actions and those of the Council. They should be prepared to give reasons for those decisions and have regard to the advice of the Council's statutory officers before making any decision.
- 6) Members must act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, members must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular they must not be used improperly for political purposes (including party political purposes). Members must have regard to any applicable Local Authority Code on Publicity under the Local Government Act 1986.

- 7) Members must take account of the views of others, including their political groups, but must reach their own conclusions and act in accordance with those conclusions.
- 8) Members should promote equality and not discriminate unlawfully against any person, and treat all people with respect. Whilst it is acknowledged that political debate may at times be robust and forthright, and that the right of freedom of expression is essential to vibrant political discourse, members should ensure that their comments and behaviour do not overstep the line of acceptability. They should not bully any person. They should respect the impartiality and integrity of the Council's officers

- 9) Members should promote and support high standards of conduct in particular as characterised by the above requirements by leadership and example.

### **3 When does this Code apply?**

- 3.1 This Code applies at all times when members act in their capacity as member or claim to do so.

### **4 Personal interests**

- 4.1 There are three categories of personal interest.

- Disclosable pecuniary interest
- Other registerable interest
- Non registerable interest

*Disclosable pecuniary interest*

4.2 The definition of disclosable pecuniary interest is set out in regulation. It is as follows:-

**1 Employment, office, trade, profession or vacation**

*Any employment, office, trade, profession or vocation carried on by a relevant person\* for profit or gain.*

**2 Sponsorship**

*Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.*

*This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.*

**3 Contracts**

*Any contract which is made between a relevant person\* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest) and the relevant authority—*

works

*(a) under which goods or services are to be provided or*

*are to be executed; and*

*(b) which has not been fully discharged.*

**4 Land**

*Any beneficial interest in land which is within the borough.*

**5 Licences**

*Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.*

**6 Corporate tenancies**

*Any tenancy where (to the Member's knowledge)—*

- (a) the landlord is the Council; and*
- (b) the tenant is a body in which the relevant person\* is a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest.*

## **7 Securities**

*Any beneficial interest in securities of a body where—*

- (a) that body (to the Member's knowledge) has a place of business or land in the borough; and*
- (b) either—*
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*
  - (ii) 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 the relevant person\* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

*\* For the purposes of this paragraph 4.2, a "relevant person" is:-*

- (i) the Member, their spouse, or civil partner;*
- (ii) a person with whom the member is living as husband and wife; or*
- (iii) a person with whom the member is living as if they were civil partners.*

*\*\* For the purposes of this paragraph 4.2, "securities" means shares, debentures, debenture stock, loan stock, units of a collective investment scheme within the meaning of the Financial Services and markets Act 2000 and other securities of any description other than money deposited with a building society*

- 4.3 Members must within 28 days of taking office as a member, notify the Monitoring Officer of any disclosable pecuniary interest where the pecuniary interest is the interest of themselves, their spouse or civil partner (or is the interest of someone with whom the member lives as spouse or civil partner) for inclusion in the Register of Members' Interests.

## *Other registerable interest*

- 4.4 Members must also within 28 days of taking office as a member, notify the Monitoring Officer of such further interests as LB Lewisham has decided should be included in the register

*Membership or position of control or management in:-*

- *Any body to which you were appointed or nominated by the Council*
- *Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party*

*Any person from whom you have received a gift or hospitality with an estimated value of at least £25*

*There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-*

- *carry out a public service, or*
- *take the place of local/central government (including through outsourcing); or*
- *carry out a function under legislation or in pursuit of a statutory power; or*
- *can be judicially reviewed,*

*are likely to be bodies carrying out functions of a public nature. They include bodies such as government agencies, other councils, health bodies, council owned companies, ALMOs, school governing bodies.*

- 4.5 LBL requires all members to ensure that their entries on the Register of Members' Interests are kept up to date annually and that they notify the Monitoring Officer of any change to their interests within 28 days of the change arising

## **5. Declaration of interests**

*Disclosable pecuniary interest*

- 5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

## **5. Declaration of Interests**

*Disclosable pecuniary interest*

5.1 By law, Members with a disclosable pecuniary interest may not participate in any discussion of, vote on, or discharge any function relating to any matter in which the member has such an interest, unless a dispensation has been granted under Section 33 Localism Act 2011.

5.2 In Lewisham decisions relating to dispensation may only be taken by the Standards Committee which will decide each case on its merits.

5.3 The law requires that if a member has a disclosable pecuniary interest which is not entered on the Register of Members' Interests, then the member must disclose the interest to any meeting of the Council at which they are present where they have a disclosable interest in any matter being considered at that meeting. However this shall not apply if the interest is a 'sensitive interest' (see para 5.4 below.) Following any such disclosure the law requires that members update their entry in the Register of Members' Interests within 28 days of the date of disclosure. In this context the law defines a meeting as a meeting of the Council, or any committee, sub-committee or joint committee of it.

5.4 A 'sensitive interest' is an interest the disclosure of which the member and Monitoring Officer have agreed could lead to the member or a person connected with them being subject to violence or intimidation

*Other registerable interests*

5.5 Members must also comply with such other provisions as the Council may require in relation to declarations of interest. The provisions which the Council has decided to include in this Code in relation to the declaration of interests are set out in paragraphs 5.6 to 5.11 below.

5.6 LBL requires that whenever a member has a registerable interest (pecuniary or otherwise) in any matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not improperly seek to influence the decision in any way.

5.7 Where the member has a registerable interest which falls short of a disclosable pecuniary interest, the member must still declare the nature of that interest to the meeting at the earliest opportunity and in any event before the matter is considered, but unless paragraph 5.8 below applies, provided the member does so, they may stay in the room and participate in consideration of the matter and vote on it.

5.8 Where a member has an interest which under this Code would not be a disclosable pecuniary interest but would be registerable (and therefore would not generally by law prevent participation in consideration of a matter in which the member has that interest,) the member must consider whether a reasonable member of the public in possession of all the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.

*Non-registerable interests*

5.9 Occasions may arise where a matter under consideration would, or would be likely to, affect the wellbeing of the member, their family, friend or close associate(s) more than it would affect those in the local area generally, but which is not required to be included in the Register of Members' Interests (for example, a decision in relation to a school closure, where a member has a child at the school). In such matters, members must comply with paragraph 5 in its entirety as if the interest were a registerable one.

5.10 Decisions in relation to the declaration of interests are for the member's personal judgement. However members must consider not only whether they have an actual interest in a matter under discussion but should at all times seek to avoid the impression being created that their judgement of the public interest is or is likely to be impaired by their personal interests.

5.11 The provisions of this paragraph 5 apply not only to meetings but to circumstances where a member makes a decision alone.

## **6. ACCESS TO INFORMATION**

6.1 Members must not disclose confidential information given to them in the course of their duties without the consent of the person entitled to give it unless:-

- (a) there is a legal requirement to disclose the information, or
- (b) the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or
- (c) the disclosure is reasonable, in the public interest, made in good faith and made in accordance with the Council's reasonable requirements.

6.2 Conversely, members must not prevent access to information to which another is entitled by law.

## **7. GIFTS AND HOSPITALITY**

The Council maintains a Register of Gifts and Hospitality in which all members must register gifts and hospitality received from any party of £25 or over. Members must also register the identity of the party whom they believe to be the source of the hospitality or gift. Members must also record in this register any gift or hospitality offered to them but not accepted if it exceeds £25. This register will be publicly available on the Council's website.

## **8 PROTOCOLS**

From time to time, the Council may put in place protocols which clarify this Code of Conduct and will be used to interpret it. Members must comply with any such protocols in place from time to time. There are attached to this Code 5 such protocols:-

- (1) Member and Officer relations
- (2) Member Use of IT
- (3) Planning and Lobbying
- (4) Local Authority Code on Publicity
- (5) Guidance Code for Members on Outside Bodies

## **9 UNDERTAKING TO COMPLY**

LBL requires that all members sign an undertaking within two months of being elected to abide by this Code of Conduct. Failure to do so will itself amount to a breach.

## **10 SANCTIONS**

Members are reminded that breach of any of the statutory requirements relating to the registration and declaration of interests may result in prosecution. Breach of the provisions introduced locally by the Council will be dealt with in accordance with the Council's procedure for handling allegations of breach of this Code

*Members in need of advice about the application of this Code should contact the Head of Law and Monitoring Officer, Kath Nicholson on extension 47648*