LGiU LOCAL GOVERNMENT INFORMATION UNIT

POLICY BRIEFING

Wider partnerships and health and wellbeing boards

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Summary

- This briefing takes an (early) look at how councils are dealing with the evolving partnership landscape, particularly in the context of the introduction of health and well boards (HWBs) as new statutory bodies with limited but important, powers.
- It considers how the boards are being positioned within councils' existing partnership arrangements and how local authorities' new responsibilities to be delivered through the boards could increasingly influence how collaboration and joint working develops in future.
- It will be of particular interest to corporate policy teams, staff and councillors involved with partnerships and health and wellbeing boards

Briefing in full

Policy and legislative background

Partnership arrangements

The partnership landscape changed radically following the election of the Coalition Government in 2010. Local strategic partnerships (LSPs), although not statutory bodies, had become a key element of the previous government's performance framework, providing the organisational structures for delivering local area agreements, as well as being the main body to bring together the public sector locally with the private and voluntary sectors.

The new government removed the statutory responsibility for local authorities to produce a local area agreement (LAAs) and disbanded the comprehensive area assessment. The government also published plans to repeal local authorities' duty to prepare a sustainable community strategy but they have not yet passed the necessary legislation - although even if they do eventually legislate to do this most areas are still working to their long-term strategies published within the last few years and will continue to use the community strategy to establish priorities, for example for the health and well being board.

It was inevitable that LSPs would evolve in the light of these changes – one of the key drivers to access LAA funding no longer exists. The Localism Act does not directly refer to LSPs. In some areas LSPs have become 'virtual' bodies; in others they have been abolished altogether; in others they are being reconfigured around Leps. Others have changed into task and finish groups. The numbers of thematic groups have been reduced in some areas. The rapid changes going on in the NHS have also altered the local partnership landscape in many areas, with occasionally the ending of existing joint arrangements between the councils and NHS and the opportunity to reassess arrangements, particularly following the establishment of CCGs.

The introduction of health and wellbeing boards (HWBs) in the Health and Social Care Act, alongside less central prescription, has prompted reconsideration of the role of LSPs in areas where this was not already happening. How the HWBs work with partners is up to the boards themselves and they can add to the minimum prescribed membership as they wish. Councils can decide to include many or few existing partners on the board; can link the board to existing LSP structures; and set up new informal and formal arrangements. Different solutions are briefly described in this paper.

Other drivers for change are also present, such as the creation of LEPs, the development of Whole Area and Community budgets and the new City Deals. This briefing primarily focuses on the impact of the HWBs.

Legal status of health and wellbeing boards

The Health and Social Care Act 2012 provides a basic, common framework for health and wellbeing boards, including that the board is a committee of the local authority, to be treated as if appointed under section 102 of the Local Government Act 1972: unlike LSPs, health and wellbeing boards have statutory duties and powers. The Act sets out the statutory powers, duties and functions in relation to a health and wellbeing board. For example, the duty to prepare joint strategic needs assessments (JSNAs) and joint health and wellbeing strategies (JHWSs) are joint functions of the local authority and CCG, and the Act requires that these be carried out via the health and wellbeing board. Other functions, such as the duty to encourage integrated working between commissioners of health or social care services, are conferred directly on the health and wellbeing board.

Regulations will be published shortly on the governance arrangements for the boards but the government stresses that these will 'enable health and wellbeing boards to operate as envisaged and ensure that local areas have the flexibility they need to shape their boards as appropriate'. It is understood that the regulations will be able to disapply or modify any legislation relating to a section 102 committee, which otherwise would apply to a health and wellbeing board. Section 196(2) of Act allows

for the delegation of any function exercisable by the local authority to the health and wellbeing board (with the exception (under section 196(3)), being the local authority's health scrutiny functions, which must not be delegated). This is a broad provision and reflects the wider remit of HWBs beyond providing the joint assessments and strategies.

John Wilderspoon the National Director of health and wellbeing board implementation has suggested that one area that could be considered for delegation is the partnership arrangements under section 75 of the NHS Act 2006 so that the board would be the lead commissioner for particular services, such as learning disabilities and would hold the pooled budget. Clearly this flexibility if taken up by councils could affect existing partnership arrangements.

Children's services

From October 2010, the statutory children's trust guidance was withdrawn and the children's and young persons plan regulations revoked – the boards are not now required to produce a children and young person's plan. There is still a duty on schools and colleges to cooperate with local authorities and other partners to promote children's wellbeing.

The requirement for local areas to have a children's trust board remains, though the government had indicated early on that they would remove it.

HWBs are not responsible for children's services but the director of children's services is one of the prescribed officers that have to be on the board, reflecting the need for both adults and children's services to be commissioned in ways that improve integration, especially where there are serious health and care problems within families.

New relationships

The arrival of health and wellbeing boards raised many issues and challenges around relationships with existing partners within and outside the council. There has been, for example, much discussion about whether providers should be on the board and the role of the community and voluntary sector. How the boards and councils work with CCGs, the National Commissioning Board, Healthwatch and Public Health England is clearly crucial for boards to work through, but is not the subject of this briefing. This briefing is focusing on links with partnership bodies – external and internal.

Councils and the shadow boards have been considering what the links should be, for example, between the board and the children's trust, between children's and adult services and with safeguarding boards. HWBs will have to decide how much of the

children's agenda to cover and how to address safeguarding issues and take a lead in embedding an effective approach to safeguarding across the local public sector.

What should the status of the new board be and what are the accountabilities that will underpin it? If the LSP continues as the overarching board what is the role of HWBs in relation to LSP thematic groups? A key question for some is whether the HWB should be a sub group of the HWB, kept separate from it or indeed replace it. Can (and should) the HWB replace now (or over time) LSP structures as a key focus of collaboration?

Health and wellbeing boards have a wide remit which can overlap with the remit of an overarching partnership body – what should be the boundaries? For example, in tackling health inequalities, the boards will be working with a wide range of partners from inside the council and externally – in housing, environment, education, employment, criminal justice, planning. What are the respective roles of the HWB and the LSP and do the structures for the LSP enable the HWB to work effectively with wider council services and external partners? These questions are relevant whatever the priorities of the HWB are.

Examples of evolving structures

The new look partnership arrangements have already been settled in some areas, but not in all, and anyway the boards are still in shadow form. The picture is bound to evolve over time. But what seems to be happening already? There is no one place where the evolving governance arrangements are summarised, but looking at different websites, there does not seem to be a pattern emerging – which is not surprising, given that every area is starting from a different place and that the government has given the boards discretion over how they will work.

The NHS Confederation's Guide to governance for health and wellbeing boards (June 2012) included a survey which, though very limited, is interesting. The respondees answered questions such as how broad the membership of their HWB should be and were they replacing their LSP with the HWB and why or why not.

Of the five respondents, three were replacing the LSP with the health and wellbeing board, and two were not. The biggest factor influencing this appears to be how well the LSP is currently felt to work – the boards seem to be reluctant to disrupt something that is seen as functioning well. Those that are merging the two bodies see it as a way of broadening the agenda of the health and wellbeing board to include more social determinants of health.

One council that was keeping the LSP as the overarching body with the HWB leading on health and wellbeing felt that their LSP was working well so why get rid of it as it had taken time to develop and become effective whilst the HWB is still grappling with its role in relation to emerging responsibilities. It was felt that merging

the LSP with the HWB might broaden the agenda too much, and "miss out on some issues, for example, the environment and economy from the LSP's function".

One council was going to close down the LSP and incorporate the community safety partnership, then formally recognise the link to the LEP – the LSP had lost impetus and with the new LEPs and HWBs there is the opportunity for a new start. The counter argument was that the factors that led to the LSP becoming moribund are still potential risks to the HWB.

Described here are some **examples** taken from council websites and regional bodies.

- One London borough is integrating their commissioning arrangements, including children's commissioning, into the new HWB structures. Joint commissioning board will feed into the HWB.
- Another says that their existing partnerships, such as around housing, will increasingly focus on strategic issues, Though they are retaining and 'strengthening' the work of their Children's and Families Trust.
- Another borough has the HWB as a sub group of the LSP.
- A borough has said the Local Strategic Partnership and themed partnership group structure has been reviewed with partners over the past year "and a new leaner, stronger engagement architecture has been agreed. It has been acknowledged by all concerned that the route of community partner engagement and influence in the new world will be through the Health and Wellbeing Board and the new architecture reflects this position, as does the SHWB membership"..
- A county council is retaining its overarching partnership board which provides a strategic framework with a public service board under that and a public service executive with six sub boards, including the HWB and the LEP. The boards have been streamlined, and they are moving from 'soft' direction of travel partnerships to 'hard' decision making ones.
- A county council has the HWB as one of five boards, including adult health and social care and children's and young peoples.
- A unitary will retain its strategic partnership board with five sub boards including the HWB, Children's Trust and employment with three sub groups - HWB commissioning, health strategy and public health commissioning.
- In another unitary, the LSP is being strengthened and the HWB will establish close links to it. The thematic health board will include providers and primary care and report to both to the HWB and to the LSP.
- A unitary is retaining its children's board and a joint commissioning executive for adult services (council and NHS) as currently. The HWB builds on the best of existing arrangements and structures. There will possibly be shared commissioning support. This council is also considering having local arms of the HWB.

- A unitary had decided to keep its LSP but in a different form' and was wary of setting up a hierarchy of partnership', but then decided to abolish the LSP, but would take the best of the infrastructure to support the HWB eg the health and wellbeing partnership which used to oversee the JSNA and joint commissioning.
- In another unitary, the HWB will have two 'doing' arms – the children's trust and adults partnership trust (which includes chief executives CEs of the acute hospitals, the NHS trust, CCGs, adult services, the CVS and the private sector).
- The LSP has been subsumed into the HWB in a unitary with informal links between the HWB and the safeguarding boards.
- A metropolitan authority has established the HWB as one of its thematic partnerships (with others having been in pace for a decade) but the HWB is not "just another partnership with different people at the table" but rather is seen as " the collective strategic vehicle to drive reforms".

Comment

How health and wellbeing boards are currently being placed within existing structures is, no doubt, being heavily influenced by the legacy of relationships that the boards inherit. The shadow boards have also been learning from previous experiences of partnerships – both good and bad. The Kings Fund survey in their report Health and Wellbeing Boards system leaders or talking shops says that 80 LSP areas already had health and wellbeing partnerships before the health reforms but that they weren't always successful – the new statutory HWB is seen as the opportunity to start afresh in some areas. Where there are strong thematic partnerships the HWB is often set up as another board (alongside, for example, community safety partnerships. neighbourhood boards and children's boards).

It is likely, however, that the HWB is perceived as having more status, scope and potential than other partnerships: the boards are responsible for crucial levers for change, such as the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy and are responsible for ensuring that commissioning plans are aligned - across health and local government. They have very clear duties around promoting integration. How individual boards see their role in relation to commissioning and joint commissioning and whether they want to take on an extensive commissioning role themselves can also affect what sub structures they implement or how the HWB fits in with existing commissioning groupings.

However, it is still early days and there are likely to be changes in some areas once the boards become statutory council committees from next April and when individual boards are clearer about their precise role in relation to issues such as commissioning and joint commissioning. When the regulations are in place, councils

will need to decide whether they will use Section 196(2) of the Health and Social Care Act to delegate functions exercisable by the local authority to the health and wellbeing board. Delegating responsibility for example for the partnership arrangements under section 75 of the NHS Act 2006 could alter structural arrangements to reflect the board holding pooled budgets and running lead commissioning.

There is still a place for core partnership structures like LSPs but their role is evolving. Some councils, whilst retaining their LSP, seem to be slimming it down and adopting a more focused approach – for example on public engagement. Developments such as the piloting of community and whole area budgets and the new city deals will increasingly influence partnership working. Interestingly, one of the neighbourhood budget pilots in Birmingham is intending to set up a local health and wellbeing board in an area with a population of 10,000 to manage pooled budgets and commission local health services, with the aim of creating a fitter community and more responsive services increasing take up and community control. But as the LGiU briefing on whole area and neighbourhood budget pilots stresses "they (the whole area pilots) lack the 'governance' dimensions of what a true whole area budget might comprise – e.g. a public assembly or forum with direct local accountability for the integrated services and resources over which they have large degrees of autonomy. Rather this is a national-local agreement of a number of bodies with different channels of accountabilities over specific programmes and projects". There is obviously room for new developments here.

Although this briefing is considering the impact of HWBs on the partnership landscape (and vice versa) the most important questions councils should be asking themselves is not what reorganised structures should look like but what do they want from partnership working and who should they be working with to achieve their priorities and objectives. This must mean that partnership arrangements can't be set in stone – they will adapt as aims, priorities and the context change over time. Developing the new partnerships that arise from the health and social care act will, in any case, take time, even where strong partnerships were already in place. Health and wellbeing boards have to work on a common vision shared by all members; on priorities; on establishing how accountabilities will work. The evidence to date is that councils and HWBs are well into considering defining their role and establishing their priorities, along with developing JSNAs and the joint health and wellbeing strategy.

Developing joint strategies will no doubt highlight new opportunities for joint working and commissioning. The new status and role of HWBs could provide a catalyst for more wide scale reform of the local public services architecture with a developing sense of shared leadership across localities. Watch this space.

For more information about this, or any other LGiU member briefing, please contact Janet Sillett, Briefings Manager, on janet.sillett@lgiu.org.uk