Item 10

Decision-making within thematic partnerships

1. Background to the issue

At the last meeting of the Health & Well-Being Partnership Board, the Officer Group was asked to do some further work to clarify how best to ensure such decisions on strategic direction can be supported by all partners, given a level of uncertainty experienced by some members as to what they are individually delegated to do as members of the Board. Although the HWBP Board does not have formal executive powers there is a shared expectation that it will be influential in shaping the activities of all the organisations represented.

The Officer Group received a paper from the Health & Well-Being Partnership Officer setting out the findings of research into how the Oxfordshire Partnership, the Public Service Board and other thematic partnerships in Oxfordshire resolve these tensions, along with a review of relevant statutory duties and associated guidance. A range of possible options was put forward for the group to consider and their recommendation arose from this discussion.

2. Main findings

A. Practice elsewhere in Oxfordshire

The majority of partnership bodies within the local strategic partnership (Oxfordshire Partnership) structure are <u>not</u> constituted as legally enforceable executive bodies and as such cannot take precedence on decision-making and public accountability from the accountable bodies. On occasion some of these bodies, such as the Public Service Board (PSB) and the Children's Trust, operate by ensuring that their 'big ticket' items are first agreed by their members' individual organisation's executive bodies. Such practice of ensuring prior agreement is generally reserved solely for those aspects of their work where they are placed under a statutory requirement to produce a strategy. It is accepted that for these elements the pace of work may be slowed down due to the need for ratification elsewhere.

Beyond the confines of agreeing such specific strategies, even these partnerships have a tendency to operate as do the others, namely by expecting members to attend partnership meetings with the appropriate authority to commit their organisations to work in support of their agreed strategic frameworks. The means for ensuring this is possible is simply an insistence that Board members are of sufficient political and managerial seniority within their individual host organisations to be able to give an accurate account of the views of the top-table of that organisation. In practice this means that Chief Executives, Directors and Cabinet members are assumed to be of sufficient seniority that they can and do speak for their organisation. In short, they are attending with the de facto authority to agree things on behalf of that organisation, without the need for a formal system of delegation.

Some partnerships take the additional step of ensuring appropriate levels of public accountability, as far as local authorities are concerned, by only designating politicians (not officers) as full members in possession of voting rights (should matters ever need to be decided by vote rather than consensus). Due to the general ethos of partnerships working best by consensus this is rarely tested in any real way. Efforts are usually made outside of formal meetings to accommodate any potential disagreement such that consensus can usually be secured and objections overcome without disabling performance.

B. Legal framework

There is some ambiguity as to how the legal requirements apply to all the layers within the umbrella LSP structure. For example, a 'duty to cooperate' is first referred to in 'Strong and Prosperous Communities' (White Paper) vol.1, p.13, at which time it was assumed that health and well-being partnerships would be statutory. This outlined provisions for a duty on the local authority and named statutory partners (including PCTs, NHS trusts, police authorities, probation, youth offending teams, and a range of national bodies) to co-operate with each other in determining LAA targets, and places a duty on those partners to have regard to those targets they have agreed. Two of Oxfordshire's thematic partnerships are themselves statutory – the Children's Trust and the Safer Communities Partnership – and thus have additional national prescriptions to follow, which clearly state the duty to cooperate applies to them too.[1] However, the duty to cooperate was not brought into being until the Local Government and Public Involvement in Health Act (Oct, 2007) and at this point, health and well-being partnerships were not a statutory requirement, so they do not benefit from such clarity.

A strict interpretation of the statutory guidance suggests the duty to cooperate is only explicitly applicable to the LSP level and cannot be assumed to apply to any non-statutory sub-structures or thematic partnerships beneath it.[2] However, a broader view could [should] be taken in recognition of the fact that waters are muddied by the evolution of relationships between the PSB and the thematic partnerships. As more of the responsibility for delivering against the LAA targets has been devolved to thematic partnerships, it is argued that they therefore share the duty to cooperate to improve well-being by working together to meet such targets – and hence staff in the Oxfordshire Partnerships Unit conclude the duty *does* apply to thematic partnerships. In support of this more relaxed interpretation, it is clear that the Comprehensive Area Assessment will look at how local authorities cooperate with partners to deliver better outcomes for local people and so, whether they are statutory entities or not, all thematic partnerships share the duty to cooperate.

The enforceability of partnership consensus thus appears to be more a matter of local discretion rather than something that can be considered legally binding. In Oxfordshire, the forthcoming Governance Review (Phase II) will reaffirm that decisions within partnership structures are made only by consensus and that the lead accountable body will always retain the final decision-making authority, since partnerships are not there to subsume their statutory responsibility or to take away from the role of elected members. In practical terms there is relatively little that can be done to force unwilling partners to carry out actions or bind them to a certain course. Moreover, agreement and willingness will usually be far more powerful means towards getting something done. Partnerships, almost by definition, only operate by cooperation and informal understanding. Partnerships therefore tend to act in accordance with the sense of peer influence that arises from the self-imposed

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[1] *Commissioning Framework for Health & Well-Being*, Dept of Health, March 2007 chapter 1, para 1.9, p.12
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_072604
Children's Trusts: Statutory guidance on inter-agency cooperation to improve well-being of children, young people and their families, Dept for Children, Schools & Families, Nov 2008, p7
www.everychildmatters.gov.uk/resources-and-practice/IG00346/
Delivering Safer Communities: a guide to effective partnership working, Home Office, July 2007, p.12-3
www.crimereduction.homeoffice.gov.uk/partnerships/partnerships001.htm

[2] *Creating Strong, Safe & Prosperous Communities: Statutory Guidance*, Communities & Local Govt, July 2008, p.18
www.communities.gov.uk/publications/localgovernment/strongsafeprosperous

pressure that other partners wish to bring to bear. Getting the work done and holding each other to account will only be possible because everyone agrees it is how a partnership works, not because it is mandated. Overall, the Officer Group felt that partnership can only ever meaningfully work by consensus.

C. Governmental expectation of health and well-being partnerships

Despite health and well-being partnerships not being made a statutory requirement, there are numerous references within government policy to them being desirable or even expected. For example, the *NHS Operating Framework*:

> places renewed emphasis on the importance of partnership working in enabling improved outcomes in health and well-being.[3]

Similarly, *Putting People First*:

> requires a collaborative approach between the sector's professional leadership and all the providers and partners. …This will not require structural changes, but organisations coming together to re-design local systems around the needs of citizens.[4]

There is plenty of evidence within government documents that they are seeking to achieve greatly improved integration between health and social/ community services for adults, in much the same way that has been achieved for Children's Services, though without the structural reforms.[5] The government seem to feel that adult services are lagging somewhat behind services for children in this regard.

> Greater progress has been made in assessing the needs of children and young people. Children's trust arrangements increasingly ensure that services for children, including health, are centred on the needs of individual children and young people based on an analysis of local needs, and are jointly planned and commissioned by the children's trust partners. The absence of a more transformational approach, built upon joint strategic needs assessment by health and local authority commissioners, is hindering the development of agreed common investments based on specified outcomes, as well as the commissioning of integrated care. [6]

Health & Well-Being Partnerships are increasingly being seen as a vehicle to carry out the role played by Children's Trusts in achieving these greater levels of cooperation and integration.

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[3] *The NHS in England: Operating Framework for 2008/09*, Dept of Health, Dec 2007 (updated Jan 2008), p.6
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081094

[4] *Putting People First*, HM Government, Dec 2007, p.1-2
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118

[5] *Our health, our care, our say*, Dept of Health, Jan 2006, p.41-6 and p.164
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4127453,
Strong & *Prosperous Communities*, Communities & Local Govt, Oct 2006, vol.2, pp.14-19
www.communities.gov.uk/localgovernment/strategies/strongprosperous/
Commissioning Framework for Health & Well-Being, op cit, chapter 1, p.10-17
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_072604

[6] ibid, chapter 3, p. 24-32

3. Recommendations from the HWBP Officer Group

In view of the above findings the Officer Group considered the current working arrangements to be satisfactory, so long as Members continue to attend on the understanding that they are in a position to be able to speak for their organisation. In coming to this view the Officer Group rejected recommending changing working practices so that:

a) all matters for debate must prior to (or after) each HWBP Board meeting be agreed by each partners' executive body;

b) all partners are asked to pass an annual resolution at its executive body giving formal delegated authority to its Board member to act unilaterally on its behalf for the following 12 months.

The Board are RECOMMENDED to agree the following:

- *Members of the Board will continue to be expected to seek appropriate input (and where necessary clarification) from colleagues as to any views that their own organisation would like them to represent.*
- *To assist with such working practices, papers for Board meetings will continue to be made available at least 10 working days before all meetings so that Cabinet members and senior managers have sufficient time to ascertain the views of their relevant colleagues. Agendas, minutes and reports will continue to be made publicly available via the website.*
- *Members of the HWBP Board are to be encouraged to actively communicate the matters being determined at Board meetings within their senior management structures, to ensure that relevant views can be fed into discussions appropriately. An option will always be maintained to defer decisions when necessary if more time is needed.*
- *Further ways to raise awareness of the Board's work and to improve levels of communication and understanding will continue to be sought by officers. An away-day for the Officer Group will be held in September to help identify additional steps that could be taken to improve the means by which members of the Board and their wider colleagues are briefed as to the workings of the Board. Specific work will be undertaken to highlight the impact the Health & Well-Being Partnership is having in terms of outcomes for the community.*

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