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# **Statutory guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies**

*Department of Health Response to Consultation*

Statutory guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies: *Department of Health Response to the Consultation*

DH INFORMATION READER BOX		
Policy HR / Workforce Management Planning / Performance	Clinical Commissioner Development Provider Development Improvement and Efficiency	Estates IM & T Finance <b>Social Care / Partnership Working</b>
<b>Document Purpose</b>	For Information	
<b>Gateway Reference</b>	18840	
<b>Title</b>	Statutory Guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies - Department of Health response to consultation	
<b>Author</b>	Department of Health	
<b>Publication Date</b>	<b>26 March 2013</b>	
<b>Target Audience</b>	NHS Trust CEOs, Foundation Trust CEOs, Directors of PH, Local Authority CEOs, Directors of Adult SSs, Allied Health Professionals, GPs, Communications Leads, Directors of Children's SSs, Healthwatch England, Public Health England, LINKs, CCG pathfinders, shadowHwBs, voluntary and community sector organisations	
<b>Circulation List</b>		
<b>Description</b>	The purpose of this publication is to provide a summary of responses to the consultation on draft statutory guidance on Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), and sets out the policy that the Department has now adopted.	
<b>Cross Ref</b>	The Health and Social Care Act 2012: Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Joint Strategic Needs Assessments and Joint Health and Wellbeing	
<b>Superseded Docs</b>	N/A	
<b>Action Required</b>	N/A	
<b>Timing</b>	<b>N/A</b>	
<b>Contact Details</b>	Freya Lock Department of Health People, Communities and Local Government Richmond House Room 330 79 Whitehall London SW1A 2NS	
<b>For Recipient's Use</b>		

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First published [Month Year]

Published to DH website, in electronic PDF format only.

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Statutory guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies: *Department of Health Response to the Consultation*

# Statutory guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies

*Department of Health Response to Consultation*

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# 1. Introduction

- 1.1 On 31 July 2012 the Department of Health published a consultation on draft statutory guidance on Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs).
- 1.2 The Health and Social Care Act 2012 (“the Act”) amended section 116 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) to require certain local authorities and their partner CCGs to prepare Joint Strategic Needs Assessments (JSNAs) – previously the duty fell to those local authorities and their partner Primary Care Trusts (PCTs). The Act also inserted new sections, 116A and 116B, into the 2007 Act. New section 116A requires that local authorities and their partner CCGs develop Joint Health and Wellbeing Strategies (JHWSs) for meeting the needs identified in JSNAs. New section 116B requires local authorities, the NHS Commissioning Board (NHS CB) (in relation to its local commissioning responsibilities) and CCGs to have regard to relevant JSNAs and JHWSs when carrying out their functions.
- 1.3 The intention behind the Act is that local authorities and the local NHS (through CCGs and the NHS CB), work together to understand the health and wellbeing needs of their local community, and agree joint priorities for addressing these needs to improve health and wellbeing outcomes and reduce inequalities through the services they commission. The policy intention is for JSNAs and JHWSs to go wider than just health and social care in order to consider the wider factors that locally impact upon health and wellbeing, to make a real impact on reducing inequalities and improving outcomes for the most vulnerable groups. In order to achieve this, local authorities and the local NHS will need to work collaboratively through their jointly-owned health and wellbeing boards, and will also need to work with a range of local partners and involve the local community throughout in order to hear their views and ensure that they can develop the best understanding of local circumstances and develop priorities that address what local people actually need.
- 1.4 The consultation ran from 31 July 2012 and closed on 28 September 2012; this document provides a summary of responses to the consultation, and sets out the policy that the Department has now adopted.

## 2. Consultation Process

- 2.1 The consultation exercise was generally in accordance with the Government's Code of Practice on Consultation (Annex C). In relation to the duration of the consultation, it ran from 31 July 2012 and closed on 28 September 2012. The period of consultation was shorter than the recommended period of 12 weeks for normal circumstances in the Code of Practice as we had already undertaken engagement on earlier drafts of the guidance, and the fact that the statutory guidance needs to be in place by April 2013. The Cabinet Office guidelines which recommended 12 week consultations were actually revised on 17th July (before this consultation was launched), taking a more flexible approach to flexibility on consultation length for departments, especially where engagement has already taken place (as in this case). More information can be found on the [Cabinet Office website](#).
- 2.2 The consultation document was published on the Department of Health's website with the accompanying Easy Read version. The consultation asked nine questions which focused on the content of the draft statutory guidance, including:
- Whether the draft clearly translated and explained the legal duties relating to JSNAs and JHWSs;
  - Whether the draft gave health and wellbeing boards the desired flexibility relating to the timing and content of their JSNAs and JHWSs; and building their own local partnerships as part of the process;
  - Whether JSNAs in the past have met the Public Sector Equality Duty and contributed to reducing health inequalities; and
  - What impact the draft guidance is expected to make both to commissioners and to outcomes for local communities.

### How we raised awareness about the consultation

- 2.3 The consultation was promoted through official level contacts with stakeholder networks, for example, through stakeholders who fed into the original engagement process, the DH and Local Government Programme Board, and colleagues in other government departments. The message was distributed through a range of networks and bulletins, both internal and external. Information about the consultation was distributed and promoted through channels including The Week (weekly e-bulletin aimed at NHS Chief Executives and their teams), the Department of Health's Social Care bulletin, and the Department of Health Voluntary Sector Strategic Partners Programme. External partner channels included the King's Fund, the Local Government Association and NHS Confederation bulletins. The consultation (with corresponding Easy Read version), was published on the Department's website, and promoted through the main health and wellbeing board online communication channels (the Knowledge Hub, DH modernisation channel and Twitter). Attention was also drawn to the consultation in official correspondence, through online articles and blogs, and at regional and national events.

## Number and range of responses

2.4 We received 188 separate responses to the consultation by email, letter and through the online response forum. Of the 188 responses:

- 17 were from NHS organisations
- 65 were from the voluntary and community sector
- 6 were from professional organisations
- 32 were from local authorities
- 15 were from shadow health and wellbeing boards
- 7 were from individuals
- 23 were from representative organisations
- 14 were from public sector organisations
- 3 were from private sector organisations
- 5 were from a Local Involvement Networks (LINKs)
- 1 was from an unknown source (no contact or organisational information was supplied)

2.5 A full list of the organisations responding is at Annex B. The Department sought the views of stakeholders and experts in the field in the months before and after the consultation period, in order to ensure that a wide range of views was captured.

## 3. Key Findings

3.1 Responses to the consultation varied in their scope, but some high level themes emerged from the consultation analysis in 4 key areas:

- 1) Legal issues, including the duties and powers contained in the Act, and the purpose of statutory guidance
- 2) The purpose of JSNAs & JHWSs, including considering the entirety of local population, and considering inequalities and wider determinants
- 3) Central prescription, including monitoring or performance management, and central government giving specific detail on undertaking certain aspects of JSNAs and JHWSs
- 4) Transparency and accountability, including how partners and the community can engage with health and wellbeing boards, and how boards can be held to account

3.2 Table A below shows the percentage of responses that were in support, not in support or did not take a view for those consultation questions where a quantitative answer was possible (questions 1 to 4, 5a and 6a).

<b>% of responses indicating agreement</b>	<b>% of responses indicating disagreement</b>	<b>% of responses that did not take a view</b>
Q1: Does the guidance translate the legal duties in a way which is clear in terms of enabling an understanding of what health and wellbeing boards, local authorities and CCGs must do in relation to JSNAs and JHWSs?		
<b>55%</b>	<b>13%</b>	<b>32%</b>
Q2: It is the Department of Health's (DH's) view that health and wellbeing boards should be able to decide their own timing cycles for JSNAs and JHWSs in line with their local circumstances rather than guidance being given on this; and this view was supported during the structured engagement process. Does the guidance support this?		
<b>65%</b>	<b>9%</b>	<b>26%</b>
Q3: Is the guidance likely to support health and wellbeing boards in relation to the content of their JSNAs and JHWSs?		
<b>45%</b>	<b>23%</b>	<b>32%</b>
Q4: Does the guidance support the principle of joined-up working, between health and wellbeing board members and also between health and wellbeing boards and wider local partners in a way that is flexible and suits local circumstances?		
<b>52%</b>	<b>15%</b>	<b>33%</b>
Q5a): In your view, have past JSNAs demonstrated that equality duties have been met?		
<b>21%</b>	<b>30%</b>	<b>49%</b>
Q6a): In your view, have JSNAs in the past contributed to developing an understanding of health inequalities across the local area and in particular the needs of people in vulnerable circumstances and excluded groups?		
<b>32%</b>	<b>25%</b>	<b>43%</b>



## 4. Summary of Responses

4.1 In this section, we have summarised the key responses to each of the consultation questions. Not all responses answered every question; some answered each question directly while others commented more broadly on the overall content of the consultation document.

**Question 1: Does the guidance translate the legal duties in a way which is clear in terms of enabling an understanding of what health and wellbeing boards, local authorities and CCGs *must* do in relation to JSNAs and JHWSs?**

### Responses

4.2 Most respondents (80% of those that answered the question) were content that the draft guidance clearly translated the duties and powers from the Act in relation to JSNAs and JHWSs, in terms of what health and wellbeing boards *must* do. Many also welcomed the accompanying table of duties and powers.

*“Hillingdon LINK agrees that the guidance is clear in setting out the roles with regards to the Health and Wellbeing Boards and local authority in the development of the JSNAs and the JHWSs.”* (Hillingdon LINKs)

*“Yes. The guidance is admirably brief and provides a clear explanation of the legislation without imposing unduly circumscribing the approaches that may best be taken.”* (Wandsworth Health and Wellbeing Board)

*“The guidance provides the flexibility for health and wellbeing boards to operate successfully.”* (Coventry City Council)

4.3 However, a number of responses demonstrated some persisting misunderstandings in relation to both the duties and powers in the Act, and the purpose and function of statutory guidance. Whilst, other wanted some further information on the operation of health and wellbeing boards beyond JSNAs and JHWSs.

### DH position

4.4 There are some areas we have strengthened within the final guidance to clarify some of the persisting misunderstandings we saw in the responses, and we will also aim to address some of them here.

- **Membership** – The core statutory membership of health and wellbeing boards was settled within the Act and there is no scope to reopen this issue at this current time. Above and beyond the statutory core members identified within the Act, membership of

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health and wellbeing boards is to be decided locally. Board membership is not the only way that partners can engage and influence the work of boards.

- Health inequalities – The aim of health and wellbeing boards is to bring together leaders across health and social care to work together to reduce inequalities. Boards will be able to have a real impact and influence over the wider determinants of health; however they do not have direct duties relating to health inequalities, unlike CCGs and the NHS CB. This is because the board itself is not a commissioner or provider so does not have direct influence over health inequalities (although a number of its core members do individually). Through their public health function, local authorities do have a duty to improve the health of their population. In using the public health grant provided to local authorities to discharge their new public health responsibilities, local authorities must have regard to the need to reduce inequalities between the people in its area.
- Purpose of statutory guidance – The 2007 Act requires the health and wellbeing boards to have regard to guidance issued by the Secretary of State when undertaking JSNAs and JHWSs – and as such boards have to be able to justify departing from it. Accordingly the purpose of the guidance is to explain the duties and powers relating to JSNAs and JHWSs, and to support health and wellbeing boards in discharging them. We have included what they *should* do to better discharge those duties by way of giving the local system support on what good practice looks like, although more of this is covered in accompanying publications such as the [NHS Confederation and LGA operating principles for JSNAs and JHWSs](#). The guidance does not cover other matters such as the later stages of the commissioning process as those are for individual commissioners – the NHS CB, CCGs and local authorities (who have a duty to have regard to the relevant JSNAs and JHWSs when discharging functions).
- Relationship between health and wellbeing boards and scrutiny – As committees of the local authority with non - executive functions, constituted under section 101(2) of the Local Authority 1972 Act, health and wellbeing boards are subject to local authority scrutiny arrangements. Similarly a number of the core statutory members of health and wellbeing boards are also subject to local authority scrutiny arrangements.

4.5 Since the launch of the consultation the [health and wellbeing board regulations](#) have been laid. The LGA and Association of Democratic Services Officers (ADSO) have also published '*Health and wellbeing boards: a practical guide to governance and constitutional issues*' [[insert link on 1 March](#)] to sit alongside these regulations. The guide is intended to support councils in a practical way in interpreting and implementing constitutional and governance aspects of the legislation, such as membership and delegation of functions to health and wellbeing boards and sub-committees, voting, codes of conduct, and transparency and openness.

**Question 2: It is the Department of Health's (DH's) view that health and wellbeing boards should be able to decide their own timing cycles for JSNAs and JHWSs in line with their local circumstances rather than guidance being given on this; and this view was supported during the structured engagement process. Does the guidance support this?**

Responses

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- 4.6 The majority of responses (88% of those who answered the question) were content that the draft guidance clearly explained that health and wellbeing boards are free to set their own local timing cycles.
- 4.7 Some responses disagreed with the principle of health and wellbeing boards being able to set their own local timing cycles and wanted to see more centralised prescription.

*“We strongly disagree with the policy to allow health and wellbeing boards the freedom to decide when to update JSNAs and JHWSs. We recommend that the Department of Health provide boards with guidance on when they should consider updating the needs assessment and the strategy with the flexibility to conduct reviews earlier if changes in population needs or new evidence arise to ensure commissioning plans are based on the most up-to-date evidence”* (Motor Neurone Disease Association, Multiple Sclerosis Society and Parkinson’s UK)

- 4.8 Many of the responses that did agree that the guidance is clear on the issue of timing, were supportive of the reasons for this, allowing health and wellbeing boards to align their work with a number of organisations both represented on the board, and working with the board. However, a significant amount of these positive responses did want health and wellbeing boards to be transparent about their timing cycles with their local partners and community to allow for engagement and participation.

*“In this context what is important is that the Boards publish a clear timetable which sets out when and how strategies, plans and assessments will be carried out and how JSNAs, JHWSs and Pharmaceutical Needs Assessments (PNAs) relate to and feed into each other”* (Celesio Group)

*“For openness and transparency there should be a requirement for decision making and consultation timescales to be clearly published to enable District Councils, their Overview and Scrutiny Committees, and their service users to get involved in a timely way.”*  
(Chesterfield Borough Council)

*“The guidance should require local authorities to establish, publish and widely communicate a timing cycle for JSNAs and JHWSs with a clear, COMPACT compliant 12-week consultation period. The publication of this schedule should demonstrate how JSNAs and JHWSs will inform the commissioning cycle of the local authority, CCG, NHS CB and other key partners including Public Health England and Housing Associations”.*  
(VONNE)

#### DH position

- 4.9 Throughout the development of the guidance and in the engagement period prior to the consultation DH heard a strong view from shadow health and wellbeing boards that they wanted flexibility to set their own local timing cycles to allow for alignment with the planning cycles across a number of organisations. DH agrees with this need for flexibility.
- 4.10 However, for the purpose of local transparency and accountability; and to allow for the participation of local partners and the community, DH also agrees that health and

wellbeing boards should publish their timelines locally. It is now recommended within the final guidance that health and wellbeing boards should be clear about their timing cycles to allow their partners and the local community to participate in the process.

**Question 3: Is the guidance likely to support health and wellbeing boards in relation to the content of their JSNAs and JHWSs?**

Responses

- 4.11 A large number of responses were content that the guidance would support health and wellbeing boards with the content of their JSNAs and JHWSs. However, this was only 66% of those who answered the question; which was significantly lower than for many of the other questions.
- 4.12 In general, local authorities and shadow health and wellbeing boards welcomed the flexibility in content afforded by the draft guidance. However, responses from other organisations, especially the voluntary and community sector wanted to see explicit references to certain groups or issues, such as Hepatitis C, or the homeless.

DH position

- 4.13 Health and wellbeing boards are a key part of the localism agenda – they are intended to bring together leaders across the local health and care system to make decisions about what their local community needs, on the basis of evidence about that local community. Health and wellbeing boards have duties to involve the local community (phrased as “people who live or work in the area”) to ensure that these decisions are influenced by what local people think, and they have a genuine say in the planning of the services they use. JSNAs and JHWSs are the process by which health and wellbeing boards do this – they are local strategic planning processes.
- 4.14 JSNAs will be the means by which the current and future health and wellbeing needs of the local population will be assessed through health and wellbeing boards. This will then be used to develop locally agreed priorities in JHWSs, which will underpin local commissioning plans. In this way, commissioners will plan local services on the basis of the identified needs. JSNAs therefore need to be inclusive of the health and care needs of the whole local population – of all ages, all conditions and all circumstances.; and JHWSs need to be based upon a dialogue about what is most important to people in the area, and what has the most impact on their health and wellbeing.
- 4.15 The guidance does give some examples of vulnerable and seldom heard groups that JSNAs of the past have often missed. These are not intended to provide a list of “groups that health and wellbeing boards must specifically prioritise”, but more paint a picture of

some of the groups who experience poor health outcomes that health and wellbeing boards may not want to miss.

- 4.16 However, it would not be appropriate for DH to specify all the care groups or area of need that JSNAs must specifically reference or should prioritise over others as this would risk undermining the purpose of JSNAs and JHWSs being an objective, comprehensive and – most importantly – a locally-owned process of developing evidence based priorities for commissioning. However, a key purpose is to consider inequalities – JSNAs and JHWSs should have regard to local inequalities and also the needs of those vulnerable to poor health. It would also not be appropriate for JSNAs and JHWSs to have a prescribed format, be monitored or benchmarked by central government – what is an important priority for one area, may not be for another due to their differing populations and circumstances.

**Question 4: Does the guidance support the principle of joined-up working, between health and wellbeing board members and also between health and wellbeing boards and wider local partners in a way that is flexible and suits local circumstances?**

### Responses

- 4.17 The majority of responses (77% of those who answered the question) agreed that the draft guidance supported joined-up working, between health and wellbeing board members and also between health and wellbeing boards and wider local partners in a way that is flexible and suits local circumstances.
- 4.18 Some responses wanted more information on how health and wellbeing boards will work with specific local partners such as Local Safeguarding Children Boards, Probation Trusts, or local voluntary sector organisations. Some of these wanted to see a national prescription to ensure that boards work with other local bodies or partners in a certain way; or wanted more information of what health and wellbeing boards will expect of their local partners.

*“The guidance does support health and wellbeing boards, however what is missing is guidance on what is expected from other local partners. I think this is a blockage to joined up working and may hinder involvement from other local partners”* (Merseyside Police)

*“Stronger encouragement to health and wellbeing boards to engage with the voluntary sector and community groups is needed within the guidance”.* (British Red Cross)

*“Further consideration needs to be given as to how the NHS Commissioning Board will have sufficient representation on health and wellbeing boards”.* (Wolverhampton County Council)

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- 4.19 Some other responses were concerned that CCG membership of health and wellbeing boards presented conflicts of interest, and wanted to know how best to manage this locally.

DH position

- 4.20 The Department wants to encourage health and wellbeing boards to work with a range of local partners including both other public sector partners and other groups such as voluntary sector organisations or private companies.
- 4.21 Working with partners will support health and wellbeing boards to develop a detailed and sophisticated picture of the needs and assets in the area. It will provide a route for health and wellbeing boards to hear from some seldom heard groups either indirectly via representative organisations, or directly by partners facilitating direct engagement activities. Joint working will also help boards develop innovative solutions to addressing the needs they do find in the area – by knowing what local skills and networks they can make use of when commissioning services in response to JSNAs and JHWSs.
- 4.22 However, health and wellbeing boards need to have flexibility to work with their local partners in a way which best suits their needs and circumstances. Depending on the local circumstances, a board may choose to invite a local organisation to be represented by a board member. Whereas, in a different area it may be more appropriate for the board to engage that organisation in other ways.
- 4.23 What health and wellbeing boards will expect from their local partners, will depend on how they work with their partners and will vary on a case by case basis. Boards do have the power to request information from any of its members (or organisations represented on boards) and this includes members they chose to invite beyond the statutory core membership. When requested, those board members have a duty to provide it, where they have it (or can reasonably be expected to have it).
- 4.24 When providing information to health and wellbeing boards, partners will need to act lawfully, including complying with the Data Protection Act. The transfer of directors of public health and their teams into local authorities presents new opportunities to improve the ways in which data on health outcomes and the social and economic factors that impact on health and wellbeing are used and linked to improve understanding of the needs of local communities. A wealth of aggregate data will continue, as at present, to be available from a number of sources including the Health and Social Care Information Centre (HSCIC) and PHE. De-identified data (individual level data but with potentially identifying information removed) will also be available from the NHS CB, the HSCIC and PHE. This aggregate and de-identified data will support the development and scrutiny of JSNAs. There may, however, be a small number of instances where confidential data is required. Any such processing of confidential data will need to have a clear legal basis.
- 4.25 A [national information governance review](#) is currently considering the balance between protecting patient information and sharing it to improve health. This review will report in early 2013/14 and is expected to help clarify whether and when it is appropriate for local authorities to process confidential health information. Additionally, the HSCIC will shortly be publishing a code of practice, which will build on existing information governance

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legislation, standards and codes of conduct to provide a clear set of guidelines on the sharing, protection and legal disclosure of confidential information obtained without consent.

- 4.26 Further information about the processing and sharing of data and confidential information can be found in the local public health intelligence fact sheets, available [here](#).
- 4.27 In working with local partners, health and wellbeing boards will need to manage conflicts of interest at all times. This however should not be seen as a barrier to joint working.

**Question 5: The DH is working with partners to develop wider resources to support health and wellbeing boards on specific issues in JSNAs and JHWSs, and equality is one theme being explored.**

- a) In your view, have past JSNAs demonstrated that equality duties have been met?**  
**b) How do you think the new duties and powers, and this guidance will support health and wellbeing board members and commissioners to prevent the disadvantage of groups with protected characteristics, and perhaps other groups identified as in vulnerable circumstances in your area?**

## Responses

4.28 Most respondents either did not feel qualified to give a view on or did not express an opinion on whether JSNAs in the past have demonstrated that equality issues have been met (question 5a). Of those that did respond to this question, 59% felt that JSNAs in the past had not demonstrated this.

4.29 Many responses to question 5b, welcomed the reference to the Public Sector Equality Duty, and the Equality Act 2010 within the guidance. Many expressed a view that by referring to this, boards will be encouraged to ensure that vulnerable groups with poor health outcomes are not forgotten within their JSNAs and JHWSs.

*“Highlighting the Equality Duty in the JSNA and JHWS processes will draw health and wellbeing boards’ attention to the need to address the needs of specific vulnerable groups and also the need to assess the effect that their decision making processes will have on people with protected equality characteristics and other vulnerable groups. This may be particularly important in any prioritisation processes.”*

(Staffordshire Public Health, on behalf of Staffordshire JSNA Strategic Group)

4.30 Some responses also commented that good working with district councils and local voluntary sector organisations will help health and wellbeing boards to consider how groups with protected characteristics under the Equality Act 2010 experience inequalities, and also to be able to proactively engage with these groups to hear their views.

4.31 One response to question 5b made the suggestion that health and wellbeing boards could use the *“Equality Delivery System (EDS), which CCGs will be required to*

*complete to provide assurance that equality is embedded into its programmes of work.”*  
(Cheshire West and Chester Health and Wellbeing Board)

## DH position

- 4.32 It is interesting to note that of those who did answer question 5a, most felt that JSNAs had not met equality duties in the past.
- 4.33 Some responses also commented that in their view equalities are not or should not be the focus of JSNAs and JHWSs. It is important for health and wellbeing boards to bear in mind that JSNAs and JHWSs are intended to lead to a reduction of local inequalities – by assessing local needs and assets and then planning how local services will take steps to meet those needs, thereby narrowing the gap for local health and wellbeing outcomes. Groups with protected characteristics often do experience inequalities, so considering their needs will support action to reduce inequalities, although this will not be the totality of developing an understanding of local inequalities. By proactively engaging these groups in different and appropriate ways health and wellbeing boards will be able to hear diverse views from across their community.
- 4.34 Health and wellbeing boards will also need to bear in mind the Public Sector Equality Duty under the Equality Act 2010 throughout the JSNA and JHWS process – not just in their engagement mechanisms, but also in understanding and addressing types of needs of different groups. The Public Sector Equality Duties apply to health and wellbeing boards by virtue of the fact that they are committees of the local authority, discharging functions of the local authority and partner CCG(s). Whether health and wellbeing boards have met these duties will be of great interest to local partners, the local authority scrutiny functions, and the local community. This is one of the ways that health and wellbeing boards can be held to account.

**Question 6: a) In your view, have JSNAs in the past contributed to developing an understanding of health inequalities across the local area and in particular the needs of people in vulnerable circumstances and excluded groups?**  
**b) What supportive materials would help health and wellbeing boards to identify and understand health inequalities?**

## Responses

- 4.35 The majority of responses to question 6a (57% of those who responded to the question) expressed the view that in the past JSNAs have contributed to understanding inequalities in their area; although it should be noted that in a way similar to question 5a many respondents did not feel qualified to take a view on this question.
- 4.36 Many responses commented that good partnership working has supported or would support the development of an understanding of local health inequalities – especially in joint working with local voluntary sector organisations to provide better information on vulnerable and seldom heard groups. Linked to this many responses from voluntary and public sector organisations commented on the information they could provide to develop a sophisticated understanding of how the wider determinants of health are impacting on



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health and wellbeing outcomes locally. A few examples of this include housing, the youth sector and probation trusts.

*“Using the police as an example, data on both repeat victims of crime and offenders, as this shows substance misuse and mental health are prevalent issues with both of these groups.”* Merseyside Police.

- 4.37 Some responses also wanted further advice on data and information relating to vulnerable groups, including advice on how to assess local assets and how to get data in more accessible formats. This included a number of comments that public health teams will need to retain access to NHS data and information after their transition to local authorities. Linked to this, some comments also asked for example for *“clarification regarding the role and contribution of Public Health England to JSNAs and data analysis.”* (NHS Tameside and Glossop)
- 4.38 Some responses to question 6b also made some useful comments and observations about how health and wellbeing boards, in their opinion should use their understanding of local health inequalities.

*“Understanding the direction of travel of key health inequalities is essential - historical information that shows trends to be included into future JSNAs. Using JSNAs as a snapshot in time, runs the risk of diverting resources to tackle an issue that may be isolated. Mapping of trends and direction of travel would add real value to the process.”* (Hinckley and Bosworth Borough Council)

*“In the past JSNAs have, in part, contributed to this understanding but it is in their previous lack of any demonstrable impact both at a strategic planning and local commissioning level where their weakness has been. Understanding an issue is only one side of the coin, converting understanding into tangible strategic priorities and commissioning intentions is perhaps where the support for boards might be more useful...[this] refers not just to health inequalities but more broadly around the handover of JSNAs and JHWSs to planners and commissioners.”* (Lincolnshire Health and Wellbeing Board)

#### DH position

- 4.39 Although the majority of respondents did comment that they felt JSNAs have contributed to an understanding of local health inequalities, 57% is only just over half of those who answered the question. JSNAs and JHWSs offer the opportunity to reduce local health inequalities by being able to identify where local services are not effectively meeting local needs and then planning services to meet them in order to narrow those local inequalities. This is something that health and wellbeing boards will need to consider in how they undertake their JSNAs and JHWSs in the future. Within this, boards should also consider how their findings and priorities will be translated into commissioning intentions locally and making their conclusions and recommendations clear to those that will need to do this translation. Without a clear overview of how JSNA findings and JHWS priorities will actually translate into local services, health and wellbeing boards may find it harder to make a real impact on local inequalities.
- 4.40 As noted in a number of responses, local partners from statutory and voluntary sector organisations will support and develop boards’ understanding of local health

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inequalities. Through these partners health and wellbeing boards will be able to gather evidence and an understanding of how wider determinants of health such as housing, planning, transport, crime and education are actually having an impact on the local community, now and in the future.

- 4.41 Although a number of responses asked for a centrally held repository of data relating to inequalities, it would not be appropriate for DH to provide this, as inequalities will vary in their type, scale and overall impact from area to area. Health and wellbeing boards will need to work with local partners to develop an understanding of the persistent health inequalities within their own communities.
- 4.42 Public Health England (PHE) will support local authorities to deliver locally appropriate interventions and services by drawing on knowledge and information; and delivering data, interpretation and evidence to support local decision-making to enable local teams to improve the public's health and reduce the impact of ill health. To be responsive to local needs, PHE will have a clear process for stakeholders to be able to discuss their needs. From 1 April 2013, public health professionals in PHE and the wider public health system in local authorities will have access through a single portal to a suite of indicators, analyses and evidence to support decision-making. PHE will be a key partner to support public health within local authorities to use these resources to increase capacity to identify local issues and make the best decisions (including prioritising local resources), to reduce inequalities and help improve the health and wellbeing outcomes of the local community, including seldom heard and vulnerable groups.
- 4.43 DH is working with partners to develop a suite of wider resources to support good practice in relation to JSNAs and JHWSs. This will include resources to assist health and wellbeing boards gather evidence from a broad range of sources on the health inequalities effecting their local population including the wider determinants of health and how these effect those communities with protected characteristics
- 4.44 Many respondents specifically commented on the usefulness of the resources produced by the Health Inequalities National Support Team. These are still available ([here](#)), and will be signposted to within the wider resources. This includes a "how to" guide on tools, methodologies and datasets to help reduce health inequalities.

**Question 7: It is the DH's view that health and wellbeing boards should make use of a wide range of sources and types of evidence for JSNAs and they should be able to determine the best sources to use according to local circumstances. This view was supported during the structured engagement process. What supportive materials would help health and wellbeing boards to make the best use of a wide range of information and evidence to reach a view on local needs and assets, and to formulate strategies to address those needs?**

## Responses

4.45 There was a large range of responses to question 7, many of which echoed or built upon responses to question 6b including requests for a centrally held repository of data, or a list of recommended data sets to be used in JSNAs.

4.46 Again, many organisations commented on the evidence and support that they or their sectors can give to health and wellbeing boards to support the development of a sophisticated picture of both local needs and assets. Some responses also raised the issue of local data sharing being a barrier to local joint working.

*“Data sharing works and becomes sustainable when the sharing goes both ways and not just one. Effective sharing by health is the best way to obtain out of service data sets that will help in the production of the assessments.”* (Individual)

4.47 Many responses also asked for some good practice case studies to illustrate how health and wellbeing boards can embed both quantitative and qualitative evidence into their JSNA and JHWS process, and also engage their local communities throughout the process. We are gathering a number of case studies across different themes of good practice to be included within a suite of wider resources.

4.48 A few responses also wanted to know whether any additional resources would be available to local areas or local partners for undertaking or participating in JSNAs and JHWSs.

*“To prevent disadvantage and tackle health inequalities it is vital that sufficient public funding is provided to back up this guidance.”* (City of London Health and Wellbeing Board)

## DH position

4.49 The Department is very grateful for the views and suggestions given in this area, and combined with feedback from the earlier engagement period, they have informed the development of the suite of wider resources to support health and wellbeing boards.

4.50 The Department of Health and central government have not in the past, and do not intend to specify the content, provide templates, or mandate particular formats for JSNAs (and JHWSs). The Department maintains the view that it would be inappropriate to update or reissue the Core Dataset originally issued in 2008. We heard very strong views from across the system during the engagement period ahead of this consultation that the former data set was often treated as a tick-list for JSNA content without local areas developing their own understanding of their local communities or using any wider evidence to inform their JSNAs.

4.51 The Department commissioned the LGA to develop the [JSNA Data Inventory](#) in 2011, which was intended to support health and wellbeing boards to develop a holistic understanding of their local needs and assets. To add to this a number of portals and sources for both quantitative and qualitative evidence will be linked to within the suite of

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wider resources. The intention is to support health and wellbeing boards to understand their own communities, and access existing evidence and tools to support this, whilst allowing maximum flexibility for boards to consider what evidence will be most relevant to their local circumstances.

- 4.52 We are working with system partners, including the NHS Confederation and LGA; and will be publishing a suite of wider resources relating to JSNAs and JHWSs. These resources, which will be hosted by the LGA [Knowledge Hub](#) from April 2013, are designed to complement the statutory guidance. The statutory guidance takes a light touch approach to allow key decisions about JSNAs and JHWSs to be made locally. The wider resources are designed to support health and wellbeing boards and their local partners to make and influence these decisions, providing case studies and signposting to resources that support good practice. The resources will be arranged into the following five categories: cross cutting good practice, assessing needs and assets, engagement and involving specific groups, process and product development, and commissioning and integration.
- 4.53 Although local authorities, CCGs and other partners will need to consider the implications of the Data Protection Act 1998, this should not be a barrier to them sharing data and information, as long as they do this in a safe and secure manner, and observe the law. There will be a mutual benefit to sharing relevant information to help develop a thorough understanding of local needs as part of JSNAs, which will in turn support effective prioritisation as a basis for each organisations' own commissioning plans. Safe and effective data sharing systems and protocols can also help organisations to work together to improve local services and outcomes, and reduce duplication when commissioning and reviewing local services. Guidance on the Data Protection Act 1998 can be found on the [Ministry of Justice website](#).
- 4.54 The duty to undertake JSNAs has existed since 2008, and although the requirements to develop JHWSs and to prepare JSNAs and JHWSs through a health and wellbeing board are new, the purpose and intentions of such local processes remain the same. JSNAs were always intended to support PCTs and local authorities to develop and commission local health and care services to address identified local needs and reduce health inequalities. This was acknowledged within the LGA's response to the consultation – *“Though the statutory responsibility for JSNA has changed, the principles underpinning an effective JSNA process remain the same.”*
- 4.55 Local authorities will need to interpret and analyse data and information for a number of their functions, including giving public health advice to CCGs, and they may choose to use this expertise to support health and wellbeing boards. As the primary JSNA and JHWS duties sit jointly on local authorities and CCGs, they will need to discuss and agree what resources and expertise they will each provide to support their health and wellbeing board.
- 4.56 The requirement to undertake JSNAs is not a new one. The impact assessment which accompanied the Health and Social Care Bill assesses the costs, benefits and risks of the enhanced JSNA process and the new duty to develop JHWSs. The statutory guidance, which supports health and wellbeing boards and their partners in undertaking

and contributing to JSNAs and JHWSs, will help to support the realisation of the costs and benefits. It does not set out anything new that *must* be done by health and wellbeing boards, but seeks to explain and describe what the duties and powers under the Act mean in practice. Each health and wellbeing board will decide how they will develop their own JSNA and JHWS process, and so funding the process is an issue to be decided at a local level. Both local authorities and CCGs will want to ensure that the JSNA and JHWS process is robust in their area, so they may choose to agree resources for the process between them.

**Question 8: What do you think NHS and social care commissioners are going to do differently in light of the new duties and powers, and as a result of this guidance? – what do you think the impact of this guidance will be on the behaviour of local partners?**

### Responses

- 4.57 Most responses to question 8 commented that they felt that the new duties and powers will enable more joined up working between health and social care locally, including the consideration of and a better understanding of the impacts of the wider determinants of health. Many felt that this presents an opportunity for local actions that improves local health and wellbeing outcomes through more integrated services and more upstream action to prevent ill health from developing, including influencing the local wider determinants of health.

*“In particular, we feel it should lead to recognition of the importance of protecting natural green spaces such as woods, encouraging the public to use them and creating new ones close to where people live.”* (The Woodland Trust)

- 4.58 There were many positive comments that respondents felt that these new changes and the flexibility of the guidance presented great opportunities for stronger joint working with local partners, including other public and voluntary sector organisations, and private sector companies; which should lead to more constructive joint commissioning to tackle local inequalities.

*“There is a golden opportunity for commissioners to work differently together and join up their commissioning intentions. The Joint Health and Wellbeing Strategy provides an opportunity to articulate what they want to achieve together. At the very least the most likely impact on commissioners will be to bring the right people together to discuss the issues. There is the potential to expand the joint agenda and accelerate progress in a more open and transparent way.”* (Hampshire County Council)

- 4.59 Some responses were not so positive about these duties and powers, and felt that little difference would be made to the behaviour of commissioners, especially in a financially challenging climate.

## DH position

- 4.60 The Department welcomes those views that are enthusiastic about the potential that these duties have for a sea change in local behaviours, and does acknowledge that some areas may be further ahead on developing effective joint working, depending on their pre-existing relationships – for some areas boards these behaviours will not be new, just an evolution in their way of local working, within a different form. For other areas, the introduction of health and wellbeing boards in itself will pose some challenges in terms of the cultures and behaviours needed to embed a strong foundation for partnership working. The Department has worked closely with the LGA, the NHS Confederation, the Leadership Academy and the NHS Institute over the last two years to support emerging health and wellbeing boards to tackle some of these issues in their development phase in order to underpin their work in the future. Going forward, biggest challenge will be to maintain momentum and translate good intentions from the shadow phase into demonstrable action. A future support offer is currently being developed by the LGA in partnership with other organisations such as the NHS Commissioning Board, Public Health England and Healthwatch England.
- 4.61 We are aware that the introduction of these duties do come at a time of significant financial challenges for local areas, and also amidst a great deal of change and uncertainty for the public sector, and we appreciate that for some areas these changes may present more challenges because of this than for others. However, we do urge health and wellbeing boards and partners to seek to develop constructive dialogue locally as these changes do present the opportunity to work differently, in a more holistic way. This can have the impact of not only improving health and wellbeing outcomes for the local community, but also to integrate services, reducing duplication, and streamlining service user experiences. These are not just positive outcomes in terms of health and wellbeing but they also could present the chance to make financial savings as the same time.

**Question 9: How do you think your local community will benefit from the work of health and wellbeing boards in undertaking JSNAs and JHWSs? – what do you think the impact of this guidance will be on the outcomes for local communities?**

## Responses

- 4.62 Many responses to question 9 from local authorities, CCGs and shadow health and wellbeing boards were enthusiastic and positive about the potential benefits to their communities. These often mentioned making integration of services easier, the ability to improve outcomes and reduce local inequalities.

*“Intelligence produced through the Integrated JSNA process will highlight inequalities between different communities and population groups across Cheshire West and Chester and this will be used to inform commissioning and decision making with the aim of improving the outcomes of our local communities.”* (Cheshire West and Chester Health and Wellbeing Board)

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- 4.63 Many of these positive responses also welcomed the focus on considering assets as well as needs in the guidance, as this will help commissioners and communities to think about different and innovative ways of meeting local needs and reducing inequalities.

*“Hopefully, local communities will experience a much more joined up approach, and have clarity and shared ownership of the priorities through on-going engagement. By taking an asset based approach, local communities should also be able to improve outcomes for themselves by understanding the resources at their disposal.”* (Shropshire Council)

- 4.64 Some responses were more cautious about the potential benefits, and these typically came from other statutory bodies or voluntary sector organisations. They often expressed apprehension that the benefits of JSNAs and JHWSs will only be realised if health and wellbeing boards foster collaborative and productive local partnerships, with effective leadership, and can effectively be held to account for their actions.

*“... the benefits of the work of health and wellbeing boards will depend on qualitative local leadership, particularly at a senior level and across different organisations. Across the UK, the benefits to the local community may vary depending on the quality of the leadership.”* (Mental Health Foundation)

- 4.65 Some wanted to see more national prescription as a way of holding boards to account, although many expressed the view that in a localised system the accountability needs to be held locally, but wanted more clarity on how they can do this. The suite of wider resources to be published in April 2013 will include a resource that maps the local accountability structures for JSNAs and JHWSs. This will hopefully provide clarity about accountability and support local stakeholders to hold each other to account.

#### DH position

- 4.66 The Department welcomes the enthusiasm expressed by shadow health and wellbeing boards, but is conscious of the cautiousness within the system in relation to these changes. We think that as the reforms bed in from 1<sup>st</sup> April 2013, health and wellbeing boards will need to be aware of the concerns of their local partners, and be mindful of the need to continue an open dialogue to develop local relationships over time.
- 4.67 We also expect that local Healthwatch will play a vital role in supporting the fostering of local partnerships and will, although a member of the health and wellbeing board, play a part in holding the board to account for ensuring the public’s voice is appropriately embedded into boards’ work.

## Conclusions and Next Steps

4.68 We are very grateful to all those who responded to our consultation on the draft JSNA and JHWS guidance. We particularly welcome, and are encouraged by, the level of constructive engagement and the broad mix of individuals and organisations that responded.

4.69 The wide range of perspectives in consultation responses have been extremely helpful in illustrating some of the challenges associated with not only health and wellbeing boards undertaking JSNAs and JHWSs, but also how a localised system will work in process. We value the value the opinions and suggestions that we have heard, and have taken the time to balance the views of emerging health and wellbeing boards and their core members, with their potential system partners.

4.70 A series of changes have been made to the statutory guidance following the opinions and suggestions that we heard during the consultation. Additional information was added to clarify issues raised by stakeholders and reiterate the DH position on key areas. These issues included:

- the flexibility of local timing cycles,
- the relationship between health and wellbeing boards and local scrutiny arrangements,
- how health and wellbeing boards will work with local partners,
- the role of Public Health England; and
- the lack of mandated content or performance management.

4.71 Next steps: the final statutory guidance on JSNAs and JHWSs has been published alongside this document, and it will take effect from 1 April 2013 and this document. To support the localist, light touch approach of the guidance a suite of wider resources will be published on the LGA Knowledge Hub from April 2013. These resources will respond to issues raised in the engagement period and consultation and will seek to support Health and Wellbeing Boards and other stakeholders to undertake the production of high quality JSNAs and JHWSs. The wider resources will contain case studies, as well as signposts to useful resources. These resources will be organised under the following categories: cross cutting good practice, assessing needs and assets, engagement and involving specific groups, process and product development and commissioning and integration.



## Annex A: Consultation Questions

1. Does the guidance translate the legal duties in a way which is clear in terms of enabling an understanding of what health and wellbeing boards, local authorities and CCGs *must* do in relation to JSNAs and JHWSs?
2. It is the Department of Health's (DH's) view that health and wellbeing boards should be able to decide their own timing cycles for JSNAs and JHWSs in line with their local circumstances rather than guidance being given on this; and this view was supported during the structured engagement process. Does the guidance support this?
3. Is the guidance likely to support health and wellbeing boards in relation to the content of their JSNAs and JHWSs?
4. Does the guidance support the principle of joined-up working, between health and wellbeing board members and also between health and wellbeing boards and wider local partners in a way that is flexible and suits local circumstances?
5. The DH is working with partners to develop wider resources to support health and wellbeing boards on specific issues in JSNAs and JHWSs, and equality is one theme being explored.
  - a) In your view, have past JSNAs demonstrated that equality duties have been met?
  - b) How do you think the new duties and powers, and this guidance will support health and wellbeing board members and commissioners to prevent the disadvantage of groups with protected characteristics, and perhaps other groups identified as in vulnerable circumstances in your area?
6.
  - a) In your view, have JSNAs in the past contributed to developing an understanding of health inequalities across the local area and in particular the needs of people in vulnerable circumstances and excluded groups?
  - b) What supportive materials would help health and wellbeing boards to identify and understand health inequalities?
7. It is the DH's view that health and wellbeing boards should make use of a wide range of sources and types of evidence for JSNAs and they should be able to determine the best sources to use according to local circumstances. This view was supported during the structured engagement process. What supportive materials would help health and wellbeing boards to make the best use of a wide range of information and evidence to reach a view on local needs and assets, and to formulate strategies to address those needs?
8. What do you think NHS and social care commissioners are going to do differently in light of the new duties and powers, and as a result of this guidance? – what do you think the impact of this guidance will be on the behaviour of local partners?
9. How do you think your local community will benefit from the work of health and wellbeing boards in undertaking JSNAs and JHWSs? – what do you think the impact of this guidance will be on the outcomes for local communities?

## Annex B: List of those who responded

We are very grateful to all those who responded to the consultation exercise.

- Action for Children
- Action on Hearing Loss
- Association of Directors for Adult Social Services
- Association of Directors of Children's Services
- Age UK
- Alzheimer's Society
- Individual
- Association of Policing and Crime Chief Executives
- Association Residential Managing Agents
- Ashford CCG
- Association of School and College Leaders
- British Association for Adoption and Fostering
- British Academy of Childhood Disability
- Barnado's
- Birmingham City Council
- British Medical Association
- Bracknell Forest Council
- Bristol City Council and NHS
- British Psychological Society
- Buckinghamshire County Council
- Cancer Research UK
- Child Accident Prevention Trust
- Care UK
- Carers Trust
- Carers UK
- Celesio Group (UK)
- Centre for Public Scrutiny
- Centre for Sustainable Healthcare
- Cheshire East Council
- Cheshire West and Chester Health and Wellbeing Board
- Chesterfield Borough Council
- Children and Young People's Mental Health Coalition
- Children's Society
- Citizen's Advice Bureau
- City of London Health and Wellbeing Board
- Clinks, Drugscope, Making Every Adult Matter, Homeless Link, Mencap, MIND, Rethink, Revolving Doors Agency, Safer Future Communities & Turning Point
- Colchester Borough Council
- Compact Voice
- Contact a Family
- Cornwall Council
- Council for Disabled Children
- Coventry City Council
- Coventry LINK
- Care Quality Commission
- Darlington Borough Council
- Individual
- Darwen Borough Council
- Individual
- Department for Environment, Food and Rural Affairs
- Derbyshire County Council
- Devon Health and Wellbeing Board
- Diabetes UK
- Dispensing Doctors' Association
- District Councils Network
- Dorset County Council
- DPH Gateshead
- DrugScope
- Durham County Council
- East Riding of Yorkshire Council
- East Riding Public Health
- Eastern JSNA network
- English Community Care Association
- Elcena Jenffers Foundation
- Enfield LINKs

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- English National Park Authorities Association
- Essex County Council
- Faculty of Public Health
- Federation of Irish Societies
- Foundation Trust Network
- Gateshead Council
- Gateshead-Environmental and Trading Standards Manager
- Greater London Authority on behalf of the Mayor of London
- Gloucestershire Shadow Health and Wellbeing Board
- Greenwich Primary Care Trust
- Hampshire County Council Adult Social Care
- Harlow Council
- Healthwatch England
- Hep C Trust
- Hertfordshire County Council
- Hertfordshire Partnership NHS Foundation Trust
- Hertfordshire probation Trust
- Hillingdon LINKs
- Hinckley and Bosworth Borough Council
- Homeless Link
- Housing LIN
- Hull HWB
- Institute of Health Equity
- Islington LINK
- Individual
- Individual
- Kent County Council
- Knowsley Public Health
- Lesbian and Gay Foundation
- Local Government Association
- Individual
- Lincolnshire Health and Wellbeing Board
- Living Streets
- London Borough of Havering
- London Fire Brigade
- London Primary Care Trust Clusters
- London Public Health Analysts Consultation Team
- London Specialised Commissioning Group
- London Voluntary Services Council
- Lundbeck
- Mental Health Foundation
- Merseyside Police
- Merseyside Probation Trust
- Mind
- Motor Neurone Disease Association, Multiple Sclerosis Society and Parkinson's UK
- NACRO and AFP
- National AIDS Trust
- National Autistic Society
- National Heart Forum
- National Housing Federation
- National Network of Parent Carer Forums
- National Youth Agency
- National Association for Voluntary and Community Action
- National Children's Bureau
- Individual
- Newcastle Wellbeing for Life Board
- NHS Bury
- NHS Dorset GP
- NHS Leeds
- NHS Leicestershire County and Rutland
- NHS Luton & Luton Borough Council
- NHS Nottingham City
- NHS SDU
- NHS SoE
- NHS Tameside & Glossop
- National Institute Clinical Excellence
- North Yorkshire County Council
- Nottinghamshire County Council
- One Sutton Board
- Operation Liberal
- Oxfordshire Health and Wellbeing Board
- Patient's Association
- People Matter Isle of Wight
- Pharmacy Voice
- Positively UK
- Probation Chiefs Association
- PromoCon, Disabled Living
- Race Equality Foundation
- RAISE
- Red Cross

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- Redcar and Cleveland LINK
- Revolving Doors Agency
- Royal National Institute of Blind People
- Royal College of Physicians
- Royal College of General Practitioners
- Royal Pharmaceutical Society
- Royal Town Planning Institute
- Salford City Council
- Scope
- Shared Lives Plus
- Shropshire Council
- Slough BC
- Somerset NHS Foundation Trust
- Southampton shadow Health and Wellbeing Board
- Southend-on-Sea
- Spatial Planning and Health Group
- St Mungos
- Staffordshire County Council
- Staffordshire PH for Staffordshire JSNA Strategic Group
- Standing Commission on Carers
- Stonewall
- Sue Ryder
- Sustrans
- Sutton Centre for the Voluntary Sector
- TB Alert
- Telford and Wrekin Health and Wellbeing Board
- Terrance Higgins Trust
- The Pharmaceutical Services Negotiating Committee
- The Women's Health and Equality Consortium
- Torbay Health and Wellbeing Board
- Transition Alliance North West
- Transport and Health Study Group
- Turning Point
- Vision 2020 UK
- Voluntary Action Islington
- Voluntary Organisations' Network North East
- Wandsworth Health and Wellbeing Board
- Weight Watchers
- West Sussex Health and Wellbeing Board
- Wish
- Wokingham Health and Wellbeing Board
- Wolverhampton City Council
- Woodland Trust

# Annex C: Code of Practice on Consultation

## **Criterion 1: When to consult**

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

## **Criterion 2: Duration of consultation exercises**

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

## **Criterion 3: Clarity of scope and impact**

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

## **Criterion 4: Accessibility of consultation exercises**

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

## **Criterion 5: The burden of consultation**

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

## **Criterion 6: Responsiveness of consultation exercises**

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

## **Criterion 7: Capacity to consult**

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.