

From: Peter Oakford – Deputy Leader, Cabinet Member for Strategic Commissioning & Public Health and Chairman of the Kent Health and Wellbeing Board

To: **Selection and Member Services Committee – 22 March 2018**

Subject: Amendments to the Constitution arising from the creation of a Joint Subcommittee of the Kent and Medway Health and Wellbeing Boards

Classification: **Unrestricted**

Summary:

The development of the Sustainability and Transformation Partnership (STP) across the Kent and Medway geographical area has led to proposals to amend governance arrangements to reduce duplication of meetings and ensure effective and joined up contribution from Democratic Leaders and Partners.

Kent County Council and Medway Council have agreed to create a joint Health and Wellbeing Board advisory subcommittee. This decision will lead to consequential amendments to the constitution as it relates to the Kent Health and Wellbeing Board

Recommendation:

- a) **That the Selection and Member Services Committee be requested to endorse the changes to the Constitution as detailed in the report and recommend their adoption.**

1. Introduction

- 1.1 The Kent and Medway Sustainability and Transformation Partnership (STP) recognises Kent and Medway as a single health and social care economy. Governance for the STP takes place at the STP Programme Board and encompasses the whole region as one place. KCC and Medway Council are both actively engaged in STP discussions. However, it is considered there would be significant merit in both Councils working together through the vehicle of their Health and Wellbeing Boards (HWB) to provide a strong democratic voice in the STP discussions as the future design and delivery of health and social care services moves forward.
- 1.2 In particular it is considered there should be a joint focus on the STP local care and prevention work streams given the responsibilities of both local authorities in social care and public health. The STP would benefit from Kent County

Council and Medway Council working jointly to actively shape and develop the proposal for a System Wide Strategic Commissioner and the relative roles, responsibilities and accountabilities for the emerging Integrated Care Systems (previously known as Accountable Care Systems). However, each Authority's cabinet would still be responsible for the budget and Commissioning decisions for their area.

- 1.3 Therefore, in response to the STP, Kent County Council and Medway Council Health and Wellbeing Boards have agreed to establish an advisory joint sub-committee under Section 198 of the Health and Social Care Act 2012 which permits two or more Health and Wellbeing Boards to make arrangements for any of their functions to be exercised jointly. The subcommittee will be called the Kent and Medway Joint Health and Wellbeing Board (KAMJHWB).
- 1.4 A joint Board would be time limited to run alongside the STP and would require both authorities to positively endorse any continuation of the arrangement. If agreed, it would start from April 1st, 2018 and be in place for 2 years.
- 1.5 Core statutory functions of a Health and Wellbeing Board will remain with the Boards of each Area, for example the Health and Wellbeing Strategy, the Joint Strategic Needs Assessment and Pharmaceutical Needs Assessment, and it is proposed that the Kent Board will meet annually to discharge these duties.
- 1.6 The proposal to establish a Kent and Medway Joint HWB constituted as an Advisory Sub Committee together with the determination of its size, membership, terms of reference and rules of procedure must be formally agreed by each Board. However, there will be consequential amendments to the Kent Health and Wellbeing Board Terms of Reference. The process for making changes to the Constitution reserves to Members any changes which are the basic rules governing the Council's business.

2. Financial Implications

- 2.1 There are no financial implications to the constitutional changes as outlined in this report.

3. Proposed Amendments to the Constitution

- 3.1 There are some minor consequential amendments to the constitution caused by the creation of a joint subcommittee and the reduction in the number of meetings of the Kent Board.
- 3.2 These are highlighted in italics on the attached current terms of reference and listed here:

- a) To be deleted: *Has oversight of the activity of its sub committees (Clinical Commissioning Group Level Health and Wellbeing Boards), focussing on their role in developing integrated local commissioning strategies and plans.*

Changes to the structures that Health is currently operating under may affect the local health and wellbeing boards. For example, in the future there may only be one CCG operating in Kent with 2 Integrated Care Systems delivering health services. Local Boards are adapting to local requirements that will support emerging systems and structures. This means these sub committees must be released to have freedom to evolve into different mechanisms to ensure the local democratic voice is accounted for in new local architecture through which health commissioning will happen.

- b) Reports to the full County Council on an annual basis will change to *as required on its activity and progress* against the milestones set out in the Key Deliverables Plan. Regular reports will be submitted to Health Reform and Public Health Cabinet Committee and to Full Council relating to the work of the STP.
- c) To be deleted: *Develops and implements a communication and engagement strategy for the work of the HWB.* This is not a statutory requirement of the Board and will be covered by the Health and Wellbeing Strategy.
- d) Frequency of Meetings. *The HWB meets at least quarterly* will change to *The HWB meets at least annually.*

4. Recommendation:

- a) **That the Selection and Member Services Committee be requested to endorse the changes to the Constitution as detailed in the report and recommend their adoption.**

5. Background Documents:

Appendix 1- Terms of Reference for the Kent Health and Wellbeing Board with proposed amendments in italics.

Contact details

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Appendix 1

Governance Arrangements for the Kent Health and Wellbeing Board

Role

The Kent Health and Wellbeing Board (HWB) leads and advises on work to improve the health and wellbeing of the people of Kent through joined up commissioning across the NHS, social care, public health and other services (that the HWB agrees are directly related to health and wellbeing) in order to:

- secure better health and wellbeing outcomes in Kent
- reduce health inequalities and
- ensure better quality of care for all patients and care users.

The HWB has a primary responsibility to make sure that health care services paid for by public monies are provided in a cost-effective manner.

The HWB also aims to increase the role of elected representatives in health and provide a key forum for public accountability for NHS, public health, social care and other commissioned services that relate to people's health and wellbeing.

Terms of Reference:

The HWB:

1. Commissions and endorses the Kent Joint Strategic Needs Assessment (JSNA), subject to final approval by relevant partners, if required.
2. Commissions and endorses the Kent Joint Health and Wellbeing Strategy (JHWS) to meet the needs identified in the JSNA, subject to final approval by relevant partners, if required.
3. Commissions and endorses the Kent Pharmaceutical Needs Assessment, subject to final approval by relevant partners, if required.
4. Reviews the commissioning plans for healthcare, social care (adults and children's services) and public health to ensure that they have due regard to the JSNA and JHWS, and to take appropriate action if it considers that they do not.
5. *Has oversight of the activity of its sub committees (Clinical Commissioning Group Level Health and Wellbeing Boards), focussing on their role in developing integrated local commissioning strategies and plans.*

6. Works alongside the Health Overview and Scrutiny Committee (HOSC) to ensure that substantial variations in service provision by health care providers are appropriately scrutinised. The HWB itself will be subject to scrutiny by the HOSC.
7. Considers the totality of the resources in Kent for health and wellbeing and considers how and where investment in health improvement and prevention services could improve the overall health and wellbeing of Kent's residents.
8. Discharges its duty to encourage integrated working with relevant partners within Kent, which includes:
 - a. endorsing and securing joint arrangements, including integrated commissioning where agreed and appropriate;
 - b. use of pooled budgets for joint commissioning (s75);
 - c. the development of appropriate partnership agreements for service integration, including the associated financial protocols and monitoring arrangements;
 - d. making full use of the powers identified in all relevant NHS and local government legislation.
9. Works with existing partnership arrangements, e.g. children's commissioning, safeguarding and community safety, to ensure that the most appropriate mechanism is used to deliver service improvement in health, care and health inequalities.
10. Considers and advises Care Quality Commission CQC and NHS Commissioning Board; monitors providers in health and social care with regard to service reconfiguration.
11. Works with the HOSC and/or provides advice (as and when requested) to the County Council on service reconfigurations that may be subject to referral to the Secretary of State on resolution by the full County Council.
12. Is the focal point for joint working in Kent on the wider determinants of health and wellbeing, such as housing, leisure facilities and accessibility, in order to enhance service integration.
13. Reports to the full County Council *on an annual basis* will change to *as required* on its activity and progress against the milestones set out in the Key Deliverables Plan.
14. Develops and implements a communication and engagement strategy for the work of the HWB; outlining how the work of the HWB will:
 - a. reflect stakeholders' views
 - b. discharge its specific consultation and engagement duties
 - c. work closely with Local HealthWatch.

15. Represents Kent in relation to health and wellbeing issues in local areas as well as nationally and internationally.
16. May delegate those of its functions it considers appropriate to another committee established by one or more of the principal councils in Kent to carry out specified functions on its behalf for a specified period of time (subject to prior agreement and meeting the HWB's agreed criteria).

Membership

The Chairman is elected by the HWB.

1. Kent County Council:
 - The Leader of Kent County Council and/or their nominee*
 - Corporate Director, Social Care, Health & Wellbeing*
 - Director of Public Health*
 - Cabinet Member for Adult Social Care & Public Health
 - Cabinet Member for Business Strategy, Performance and Health Reform
 - Cabinet Member for Specialist Children's Services
2. Clinical Commissioning Group: up to a maximum of two representatives from each consortium*
3. A representative of the local HealthWatch* organisation for the area of the local authority.
4. A representative of the NHS Commissioning Board Local Area Team. *
5. Three elected Members representing the Kent District/Borough/City councils (nominated through the Kent Council Leaders).

**denotes statutory member.*

Procedure Rules

1. **Conduct.** Members of the HWB are expected to subscribe to and comply with the Kent County Council Code of Conduct. Non-elected representatives on the HWB (e.g. GPs and officers) will be co-opted members and, as such, covered by the Kent Code of Conduct for Members for any business they conduct as a member of the HWB.
2. **Declaration of Disclosable Pecuniary Interests.** Section 31(4) of the Localism Act 2011 (disclosable pecuniary interests in matters considered at meetings or by a single member) applies to the HWB and any subcommittee of it. A register of disclosable pecuniary interests is held by the Clerk to the HWB,

but HWB members do not have to leave the meeting once a disclosable pecuniary interest is declared.

3. **Frequency of Meetings.** *The HWB meets at least quarterly will change to The HWB meets at least annually.* The date, time and venue of meetings is fixed in advance by the HWB in order to coincide with the key decision-points and the Forthcoming Decision List.
4. **Meeting Administration.**
 - HWB meetings are advertised and held in public and administered by the County Council.
 - The HWB may consider matters submitted to it by local partners.
 - The County Council gives at least five clear working days' notice in writing to each member of every ordinary meeting of the HWB, to include any agenda of the business to be transacted at the meeting.
 - Papers for each HWB meeting are sent out at least five clear working days in advance.
 - Late papers may be sent out or tabled only in exceptional circumstances.
 - The HWB holds meetings in private session when deemed appropriate in view of the nature of business to be discussed.
 - The Chairman's decision on all procedural matters is final.
5. **Meeting Administration of Sub Committees.** HWB sub-committees are administered by a principal local authority, in the case of the Clinical Commissioning Group level HWBs, by a District Council in that area. They will be subject to the provisions stated in these Procedure Rules.
6. **Special Meetings.** The Chairman may convene special meetings of the HWB at short notice to consider matters of urgency. The notice convening such meetings shall state the particular business to be transacted and no other business will be transacted at such meeting.

The Chairman is required to convene a special meeting of the HWB if they are in receipt of a written requisition to do so signed by no less than three members of the HWB. Such requisition shall specify the business to be transacted and no other business shall be transacted at such a meeting. The meeting must be held within five clear working days of the Chairman's receipt of the requisition.

7. **Minutes.** Minutes of all HWB meetings are prepared recording:
 - the names of all members present at a meeting and of those in attendance
 - apologies
 - details of all proceedings, decisions and resolutions of the meeting

Minutes are printed and circulated to each member before the next meeting of the HWB, when they are submitted for approval by the HWB and are signed by the Chairman.

8. **Agenda.** The agenda for each meeting normally includes:

- Minutes of the previous meeting for approval and signing
- Reports seeking a decision from the HWB
- Any item which a member of the HWB wishes included on the agenda, provided it is relevant to the terms of reference of the HWB and notice has been given to the Clerk at least nine working days before the meeting.

The Chairman may decide that there are special circumstances that justify an item of business, not included in the agenda, being considered as a matter of urgency. He must state these reasons at the meeting and the Clerk shall record them in the minutes.

9. **Chairman and Vice Chairman's Term of Office.** The Chairman and Vice Chairman's term of office terminates on 1 April each year, when they are either reappointed or replaced by another member, according to the decision of the HWB, at the first meeting of the HWB succeeding that date.

10. **Absence of Members and of the Chairman.** If a member is unable to attend a meeting, then they may provide an appropriate alternate member to attend in their place. The Clerk of the meeting should be notified of any absence and/or substitution within five working days of the meeting. The Chairman presides at HWB meetings if they are present. In their absence the Vice-Chairman presides. If both are absent, the HWB appoints from amongst its members an Acting Chairman for the meeting in question.

11. **Voting.** The HWB operates on a consensus basis. Where consensus cannot be achieved the subject (or meeting) is adjourned and the matter is reconsidered at a later time. If, at that point, a consensus still cannot be reached, the matter is put to a vote. The HWB decides all such matters by a simple majority of the members present. In the case of an equality of votes, the Chairman shall have a second or casting vote. All votes shall be taken by a show of hands unless decided otherwise by the Chairman. For clarity, each Clinical Commissioning Group has one vote, irrespective of whether both the Clinical Lead and Accountable Officer for that Clinical Commissioning Group attend the HWB.

12. **Quorum.** A third of members form a quorum for HWB meetings. No business requiring a decision shall be transacted at any meeting of the HWB which is inquorate. If it arises during the course of a meeting that a quorum is no longer present, the Chairman either suspends business until a quorum is re-established or declares the meeting at an end.

13. **Adjournments.** By the decision of the Chairman, or by the decision of a majority of those members present, meetings of the HWB may be adjourned at any time to be reconvened at any other day, hour and place, as the HWB decides.
14. **Order at Meetings.** At all meetings of the HWB it is the duty of the Chairman to preserve order and to ensure that all members are treated fairly. They decide all questions of order that may arise.
15. **Suspension/disqualification of Members.** At the discretion of the Chairman, anybody with a representative on the HWB will be asked to reconsider the position of their nominee if they fail to attend two or more consecutive meetings without good reason or without the prior consent of the Chairman, or if they breach the Kent Code of Conduct for Members