**By:** Roger Gough, Cabinet Member for Business Strategy, Performance & Health Reform
Graham Gibbens, Cabinet Member for Adult Social Care & Public Health
Meridan Peachey, Director of Public Health

**To**: Selection and Member Services Committee

**Date**: 7 June 2011

**Subject**: Establishing a Shadow Health and Wellbeing Board for Kent

**Classification:** Draft

---

**Summary**:

This paper is seeking Selection and Member Services Committee approval for the establishment of the Kent Health and Wellbeing Board (HWB), including Terms of Reference, Standing Orders and Membership.

---

1. **Background**.

1.1. The Health and Social Care Bill outlines a new role for local authorities for the co-ordination, commissioning and oversight (including scrutiny) of health, social care (both adults and children's), public health and health improvement. The following are the key duties that Kent County Council will have (subject to the enactment of the Bill) which it will need to prepare for:

- Creation of a Health and Wellbeing Board
- Transfer of Public Health and health improvement functions from the PCT, including a ring fenced budget.
- Expansion of the health and social care scrutiny functions
- Establishment of the local HealthWatch.

1.2. This paper focuses on the development of the HWB functions. Kent has been awarded Health and Wellbeing Board Early Implementer status by the Department of Health, enabling it to build on its strong track record of partnership working between the County Council and health organisations. Discussions have been led by both the Cabinet Members for Older Peoples Services and Business Strategy and Support with support from the Shadow Health and Wellbeing Task Group, led by the Director of Public Health, Meradin Peachey.

1.3. Shadow HWBs will have to be in place in every upper tier authority by the end of 2011. By undertaking the early implementer work, Kent County Council will have the mechanisms in place, relationships cemented and a work programme underway by that date. The final

shape of the HWB (subject to legislation) will be subject to a separate decision.

1.4. Once established, the HWB will act as a full KCC committee operating in shadow form until the final legislation detailing the statutory duties of the HWB is enacted[1]. During this period, the HWB will continue to develop relationships between professional groups, refine roles and responsibilities and identify and deliver some quick wins (e.g. joint commissioning). In support of this, a robust evaluation process has been developed to enable lessons to be learnt as this unique partnership develops in shadow form.

## 2. Health and Social Care Bill

2.1. The Health and Social Care Bill outlines the role and responsibilities of the HWB, to provide a strategic and integrated approach to local commissioning across the NHS, social care and public health. In response to the consultation on the NHS White Paper, the role of the HWB has been further strengthened, and now includes responsibility for:

- Encouraging integrated working, including increased joint commissioning and pooled budgets.
- Conducting a Joint Strategic Needs Assessment (JSNA) to assess health and wellbeing needs of local people, and identify local priorities.
- Using the JSNA, agreeing a Joint Health and Wellbeing Strategy across the NHS, public health, social care and children's services
- Supporting individual organisations, including GP consortia, to align their commissioning strategies to the Joint Health and Wellbeing strategy for the county.
- Acting as an open-ended vehicle (upper tier authorities will have the freedom to delegate additional functions to the HWB with the aim of providing better and more integrated services).
- The HWB will be able to formally write to the NHS Commissioning Board and the GPC if, in its opinion, the local NHS commissioning plans have not had adequate regard to the Joint Health and Wellbeing Strategy and Needs Assessment. It will also be able to write to the Local Authority if it feels the same is true of public health or social care commissioning plans.

2.2. The passage of the Health and Social Care Bill is currently subject to a pause, during which Government is seeking further comments on its content.

---

[1] the Health and Social Care Bill states that: "A Health and Wellbeing Board is a committee of the local authority which established it and, for the purposes of the enactment, is to be treated as if it were a committee appointed by that authority under section 102 of the Local Government Act 1972

3. **Early Implementer status to create a Shadow Kent Health and Wellbeing Board**

3.1. The NHS White Paper legislative framework sets out a requirement for HWBs to be in place by April 2013 (when they formally assume powers and duties at the same time that GP consortia take on the responsibility for the NHS budget). The legislative framework and next steps documentation set out an indicative timetable for the development of HWBs:

- Early 2011 – establishment of a network of early implementers, to start work on the new arrangements.
- By end 2011 – establishment of "shadow" HWBs in every upper tier authority.
- 2011/12 – Shadow running of HWBs.
- April 2013 onwards – statutory duties and powers to take full effect

3.2. Kent County Council was awarded Early Implementer status in March 2011, and has held an initial meeting with interested parties (including GPs), established a task force to develop the terms of reference and governance arrangements and to establish the HWB in shadow form ahead of the April 2012 deadline.

3.3. Dover District Council has also been awarded Early Implementer status. Whilst the statutory duty will sit with upper tier authorities; having Early Implementer status for both the County and a district council will enable the issues of working across two tiers on the HWB to be highlighted and addressed.

3.4. Evaluation. An evaluation process has been designed to review and evaluate the work undertaken by the HWB in its developmental phase. It is envisaged that the HWB will report to full Council annually on progress against its work plan, including the evaluation of impact.

4. **Relationship with Other Partnerships**

4.1. The HWB has a clear and strategic role working across the health system in Kent as described above. It will need to establish a distinct role that does not duplicate other arrangements while at the same time developing effective working relationships with existing or proposed partnerships.

4.2. The key relationships are with the following partnerships:

- Kent Forum and Ambition Boards. The work of the HWB will form part of the Ambition Board for "Tackling Disadvantage" and will report into the Kent Forum via this route.
- Locality Boards. These are in development across the County. Relationships between the HWB and the Locality Boards will be developed as the locality board model is developed. Links to Locality

Boards remains important, reflecting the complexities of health and social care needs across Kent.

- District level Health and Wellbeing Partnerships/Groups. Kent has already established a network of district-level Health and Wellbeing Partnerships/Groups (HWBPs). These have focussed on delivering the Public Health/Choosing Health agenda (including allocation of limited resources in some areas of the County). They have to date had limited GP involvement in district-level HWBPs. The role of these groups needs reviewing in the light of the development of both the HWB and the Locality Boards. However, they remain a useful mechanism for delivering the public health agenda at a local level.
- Once the HWB is established, it should develop locality and partnership arrangements as it sees fit. A key partnership will be with LINk and HealthWatch with whom it intends to work closely, in line with Department of Health policy and emerging best practice.

5. **Proposed Membership and Terms of Reference** (See Appendix A)

5.1. The Health and Social Care Bill identifies the statutory membership of the HWB as:

- At least one councillor of the local authority – Leader of the Council and/or their nominee
- Representative of each relevant GP commissioning consortium (one person may represent more than one consortia with the agreement of the HWB)
- Director of Adult Social Services
- Direct of Children's Services
- Director of Public Health
- Representative of the local HealthWatch/LINk organisation.
- Such other persons or representatives as the local authority thinks appropriate (this was specifically added to the Bill in recognition of the role and contribution of district councils and other partners to the health and wellbeing agenda).
- NHS Commissioning Board (for the JSNA, HWB Strategy and matters relating to the commissioning functions of the NHS Commissioning Board).

5.2. In relation to Kent County Council representation, the following is recommended:

- The Leader of Kent County Council or his nominee*
- Cabinet Member for Adult Social Care & Public Health
- Cabinet Member for Business Strategy, Performance and Health Reform
- Cabinet Member for Specialist Children's Services
- Corporate Director for Families and Social Services*
- Director of Public Health*

* denotes statutory member of the HWB.

5.3. In addition the following membership for non-KCC bodies is recommended:

- GP Consortia: up to a maximum of one representative from each consortium or a number to be determined by the GPC leads*
- HealthWatch/Link*
- Three elected Members representing the District/Borough/City Councils (nominated through the Kent Forum)
- PCT Cluster Chief Executive (until 2013)
- NHS Commissioning Board*

* denotes statutory member of the HWB.

5.4. It is emphasised that the HWB membership will need to be kept under review and is liable to change both as a result of experience during this developmental stage and emerging Government guidance.

5.5. There is an expectation that there will be a reasonable balance between GPs and Kent County Council representatives.

5.6. As the HWB will contain both KCC officer and Members and non-KCC representatives, the following matters deviate from the normal KCC committee Procedure Rules:

- Conduct – Members of the HWB are expected to subscribe to and comply with any code of conduct that applies to the members concerned. In other words there will be more than one code of conduct in operation within this HWB, but that no single code of conduct will take precedence over another.
- Voting – The HWB will operate on a consensus basis, where consensus cannot be achieved the meeting or matter will be adjourned. The matter will then be reconsidered and if still no consensus can be achieved, then a vote will be taken (using a simple majority). Bullet point 9 in the Terms of Reference refers to the voting methods to be used, as the shadow HWB develops it's role, how any votes are undertaken (whether one person, one vote or block voting) can be worked through in practice.

## 6. Initial Work Plan

6.1. This can be split into two main areas of focus: Overview and Development.

6.1.1. **Overview** – This covers areas of work that the HWB is responsible for, but does not have to deliver itself (e.g. work areas that it commissions). This covers in the first instance:

- Commission and agree the Joint Strategic Needs Assessment
- Commission and agree the Joint Health and Wellbeing Strategy
- Commission and agree the Pharmaceutical Needs Assessment
- Support individual organisations including GPC to align their commissioning strategies to the JHWS

- Whilst the HWB is in its shadow form it will have no formal legal status or powers. As such, the existing arrangements for approving the JSNA, PNA and JHWS may still need to pertain until such time as the HWB acquires its full status.

6.1.2. **Development** – This covers areas of work that the HWB needs to develop during its initiation stage. These include:

- Evaluation
- Working with District Councils and locality based partners (locality working arrangements)
- Pathway Advisory Groups – the role of these will be to review and co-design new care pathways to improve the patient journey, reduce duplication and enable reinvestment of savings made. These groups will include representation from GPCs, Providers, Local Government and the Public. They will be the place that all partners can discuss pathway redesign without prejudicing any commissioning process. It will provide commissioning guidance on the pathways it reviews e.g. Dementia. In the first instance these should concentrate on the priorities identified by the JSNA and the JHWS.

## 7. Scrutiny Arrangements

7.1. The creation of a democratically-led HWB is an opportunity to enhance accountability and ensure a better local focus in the development of health services in Kent.

7.2. Following on from the Health and Social Care Bill consultation process, the functions of health overview and scrutiny will not transfer to the HWB as originally envisaged in the NHS White Paper. Under the terms of the Bill as currently drafted, the HWB will be prohibited from exercising the health scrutiny function. The existing local authority health scrutiny functions are to be strengthened; for example, it will have its power extended to require any provider of NHS funded services as well as any NHS commissioner, including the GPCCs, to attend scrutiny meetings and provide information.

7.3. The Health and Social Care Bill as currently drafted, preserves the local authority health scrutiny function but removes the duty to have a separate health overview and committee, although the Bill allows for a committee to continue exercising the function if the authority so wishes. The Bill also currently allows for the detail around the exercise of health scrutiny powers to be set out in secondary legislation (to be consulted on later in the year). This may involve the power of referral being vested in the full Council and not the Health Overview and Scrutiny Committee (HOSC) and possibly involve other changes to the scope and exercise of the referral powers. The power to refer currently relates to the ability of the HOSC to refer services to the Secretary of State on two grounds: inadequate consultation or that change is not in the best interests of local health services.

## 8. Consultation

8.1. The proposal to create a shadow HWB has been developed by the Health and Wellbeing Taskforce in consultation with the lead Cabinet Members for Adult Social Care & Public Health and Business Strategy, Performance & Health Reform, and other partners. The key consultation points have been:

- 16 March – HWB Workshop with key partners
- 25 March – Kent Forum presentation on emerging health agenda
- 28 March – First meeting of the Health and Wellbeing Task Group (chaired by Meridan Peachey)
- 18 May – Member Briefing on Health
- 6 June – Kent Forum Health Session
- 15 June – Second workshop/meeting for HWB key partners.

9. **Risks**.

9.1. The consultation on the Bill is currently subject to a pause whilst views on it are sought. KCC, as an Early Implementer of HWBs, has been asked to respond to a number of specific points including:

- How to ensure public accountability and patient involvement in the new system
- How advice from across a range of healthcare professionals can improve patient care.

9.2. It is unclear at this time what will change in the Bill and the impact this will have in developing the HWB structures or any further burdens that this will place on the Council.

9.3. The timeline for establishing the shadow HWB is relatively short, and whilst good progress has been made to develop the relationships between the key representatives; delays in the Health and Social Care Bill will have an impact on the implementation of the HWB.

10. **Financial Implications**.

10.1. No additional funding has so far been made available for the operation of the HWB. However, a decision will be required as to where the administration of the Shadow HWB will sit, whether in Democratic Services or elsewhere in Kent County Council. It is estimated that each quarterly meeting will involve up to 10 hours' work, in relation to making the logistical arrangements for the meeting, collating and sending out papers, meeting attendance, drafting minutes and undertaking any follow-up work. Staff costs at level KR8 are estimated to be in the region of £250 per meeting. Further costs will be incurred in relation to accommodation for the meetings, particularly if held outside County Hall, refreshments, etc, for which no budgetary provision currently exists. A total annual budgetary provision of approximately £2,500 therefore needs to be made.

10.2. In addition, no additional funding has been made available to provide the wider operational and policy support to the HWB. It is impossible to say at this time what the policy cost implications are, however, the potential scale of the health policy issues is significant; on a comparative scale (08/09 figures), the NHS in Kent spent £1.9 billion whereas KCC spent £857 million (after the Education DSG is removed from the total KCC budget).

11. **Recommendations**

11.1. Selection and Member Services Committee is asked to:

a) Recommend to County Council the establishment of the Kent Health and Wellbeing Board as a committee of Kent County Council. The Health and Wellbeing Board to operate in shadow form until legislation is enacted.
b) Recommend to County Council the KCC membership of the HWB and the Terms of Reference as set out in Appendix 1.
c) The Board report annually to full Council on its activity and progress over the previous 12 months.
d) Review and amend where necessary, the Terms of Reference and Standing Orders in relation to the HWB; in light of the development of the Board over the next 18 months it's evaluation programme and the publication of relevant legislation and guidance.

**Appendices:**

Appendix A – Terms of Reference

**Background Documents:**

There are no background documents.

Contact Officer: David Whittle. David.whittle@kent.gov.uk. 01622 696969