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**To:** Corporate POSC - 6 July 2011

**Subject:** Health and Wellbeing Board – Update

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**Summary:** The paper outlines progress to date in regard to establishing a shadow Health and Wellbeing Board for Kent, including implications following the report of NHS Future Forum and the Government's proposed further changes to the Health and Social Care Bill

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## 1. Background:

1.1 The Health and Social Care Bill outlines a new role for local authorities in 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):

- Creation of a Health and Wellbeing Board (HWB)
- 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 a local HealthWatch.

1.2 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 with health organisations. Shadow HWBs will have to be in place in every upper tier local authority by the end of 2011.

1.3 Once established, the HWB will act as a full KCC committee operating in shadow form until the Health and Social Care Bill is passed detailing the full statutory duties of the HWB and timetable for their commencement.<sup>1</sup> During this period, the shadow 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, an evaluation process has been developed to enable lessons to be learnt as this unique partnership develops in shadow form.

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<sup>1</sup> 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

## **2. Health and Social Care Bill:**

2.1 The Bill outlines the role and responsibilities of the HWB as providing a strategic and integrated approach to local commissioning across the NHS, social care and public health, through:

- 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 (HWS) across the NHS, public health, social care and children's services
- Supporting individual organisations to align their commissioning strategies to the Joint Health and Wellbeing strategy for the county.
- Being 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. 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.

## **3. Early Implementer Status:**

3.1 The legislative framework sets out a requirement for HWBs to be in place by April 2013 (when they formally assume powers and duties). The legislative framework and next steps documentation set out by the Department of Health an indicative timetable for the development of HWBs as:

- 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 been in regular contact through an array of mechanisms with interested parties (including GPs), has 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 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.
- 3.5 It is proposed to seek approval for the creation of a shadow Health and Wellbeing Board for Kent as a committee of KCC when County Council meets in July. Pursuant to that, a paper outlining the proposed Terms of Reference (ToR) and Standing Orders (SO) for a HWB were agreed by the Selection and Member Services Committee at its meeting on 7 June. The ToR and draft standing orders are attached as Appendix A to this report.

#### **4. NHS Futures Forum (Health and Social Care Bill Pause):**

- 4.1 The Government paused the progress of the Health and Social Care Bill in May and established the NHS Futures Forum (chaired by Professor Steve Field) to seek the views of NHS staff, patients, public and stakeholders on the changes outlined in the Bill. The Futures Forum reported on the 13<sup>th</sup> June, and the Government outlined its responses to the recommendations on the 14<sup>th</sup> of June.
- 4.2 The most significant change in response to the pause is that proposed GP Consortia will now become Clinical Commissioning Groups (CCGs) comprising a broader membership from across the NHS and local communities. Before establishing any Clinical Commissioning Group, the NHS Commissioning Board will be required to consult, and take into account the views of, the local Health and Wellbeing Board.
- 4.3 The Government also outlined that HWB will:
  - Have a new duty to involve users and the public.
  - Be involved throughout the commissioning process, statutory guidance is due on CCG plans alignment with the local Health and Wellbeing Strategy.
  - Will be able to refer CCG commissioning plans back to CCG's or the NHS Commissioning Board for further consideration if they are deemed not to sufficiently comply with the local Health and Wellbeing Strategy.
  - Will have a pivotal role in promoting joint commissioning and integrated provision between health, public health and social care.
  - Will play a formal role in authorising Clinical Commissioning Groups - the NHS Commissioning Board will have to take the HWBs' views into account in their annual assessment of CCGs.
  - HWB will continue to operate as a committee of local government. It will be up to each local authority to determine the precise number of elected members on HWBs and they will be free to insist upon having a majority of elected councillors if they so wish.

- HWB will be subject to oversight and scrutiny by the existing scrutiny functions.
- 4.4 The Government response to the NHS Futures Forum further strengthens the role of the HWB with additional powers and stronger links to Clinical Commissioning Groups to promote greater integration between health and social care provision. For the moment, the proposed Terms of Reference for the shadow HWB do not need to be changed, but will be regularly reviewed and will also be formally reconsidered by County Council ahead of the HWB taking on full powers in 2013.

## 5. Relationship with Other Partnerships:

5.1 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.

5.2 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.

## 6. Consultation

6.1 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 Meriden Peachey)
- 18 May – Member Briefing on Health
- 6 June – Kent Forum Health Session
- 7 June – Selection and Member Services Committee
- 15 June – Second workshop/meeting for HWB key partners.

## **7. Recommendations:**

7.1 Corporate POSC is asked to:

- a) Note the Report and comment as it sees appropriate

## **Appendices:**

- Appendix A – Draft Terms of Reference and Standing Orders (as approved by Selection and Member Services Committee)

## **Background Documents:**

- The full Government response to the NHS Future Forum can be found at: [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_127444](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_127444)
- Establishing a Shadow Health and Wellbeing Board for Kent, Selection and Member Services Committee, 7 June 2011

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## Appendix A

### Kent Shadow Health and Wellbeing Board

#### Draft Terms of Reference

##### Role

The shadow Health and Wellbeing Board (HWB) will lead and advise 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 and 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 Shadow HWB also aims to increase the local democratic legitimacy 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 will:

1. Commission and endorse the Kent Joint Strategic Needs Assessment (JSNA), subject to final approval by relevant partners, if required.
2. Commission and endorse 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. Commission and endorse the Kent Pharmaceutical Needs Assessment, subject to final approval by relevant partners, if required.
4. Review 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 they consider that they do not (for instance, by writing formally to the local authority leadership, GP consortium or the NHS Commissioning Board as appropriate, drawing attention to their reservations).
5. Consider the totality of the resources in Kent for health and wellbeing and consider how and where investment in health improvement and prevention services could (overall) improve the health and wellbeing of Kent's residents.

6. Endorse and secure joint arrangements where agreed and appropriate; including the use of pooled budgets for joint commissioning (s75), the development of appropriate partnership agreements for service integration, and the associated financial protocols and monitoring arrangements., making full use of the powers identified in all relevant NHS and local government legislation.
7. Facilitate pathway redesign to improve the patient journey and healthcare outcomes.
8. Consider and advise CQC, NHS Commissioning Board, Monitor and Providers in health and social care with regards to service reconfiguration and make recommendations to those providers to enable improved and integrated service delivery.
9. Provide 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.
10. Be 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.
11. Discharge its duty to encourage integrated working with relevant partners within Kent (e.g. at locality level).
12. Develop and implement a Key Deliverables Plan, which will support the HWB early implementer status evaluation report, to be submitted to the Department of Health in May 2012.
13. Will report to the full County Council on an annual basis on its activity and progress against the milestones set out in the Key Deliverables Plan.
14. Develop and implement a Communication and Engagement strategy for the work of the HWB; outlining how the work of the HWB will reflect stakeholders views and how the HWB will discharge its specific consultation and engagement duties. Work closely with LINKs/Local HealthWatch.
15. Represent Kent in relation to health and wellbeing issues across localities, nationally and internationally.
16. Subject to prior agreement and meeting the HWB's agreed criteria, the HWB may delegate those of its functions it considers appropriate to another committee established by one or more of the principle councils in Kent to carry out specified functions on its behalf for a specified period of time.

## **Membership**

The Chairman will be elected by the HWB.

1. Kent County Council:

- The Leader of Kent County Council and/or their 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\*

2. GP Consortia: up to a maximum of one representative from each consortium or to be determined by the GPC leads\*

3. HealthWatch/Link\*

4. Three elected Members representing the Kent District/Borough/City councils (nominated through the Kent Forum)

5. PCT Cluster Chief Executive (until 2013)

6. NHS Commissioning Board\*

\*denotes statutory member.

# Kent Health and Wellbeing Board – Terms of Reference

## Standing Orders

1. **Conduct.** Members of the HWB are expected to subscribe to and comply with any code of conduct that applies to them. No code of conduct will have precedence over another.
2. **Frequency of Meetings.** The HWB shall meet at least quarterly. The date, time and venue of meetings shall be fixed in advance by the HWB in order to coincide with the key decision-points and Forward Plan.
3. **Meeting Administration.** HWB meetings shall be advertised and held in public and be administered by the County Council. The HWB will consider matters submitted to it by local partners. The County Council shall give at least five clear working days' notice in writing to each member for every ordinary meeting of the HWB, to include any agenda of the business to be transacted at the meeting. Papers for each HWB meeting will be sent out five clear working days in advance. Late papers will be sent out or tabled only in exceptional circumstances. The HWB shall hold meetings in private session when deemed appropriate in view of the nature of business to be discussed. The Chair's decision on this matter shall be final.
4. **Special Meetings.** The Chair 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 Chair will be required to convene a special meeting of the HWB if s/he is in receipt of a written requisition to do so signed by no less than [three] of the [Constituent Members/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 seven days of the Chair's receipt of the requisition.

5. **Minutes.** The HWB shall cause minutes of all of its meetings to be prepared recording:
  - a) the names of all members present at a meeting and of those in attendance
  - b) apologies
  - c) details of all proceedings, decisions and resolutions of the meeting.

These minutes shall be printed and circulated to each member before the next meeting of the HWB when they shall be submitted for the approval of the HWB. When the minutes of the previous meeting have been approved they shall be signed by the Chair.

6. **Agenda.** The agenda for each meeting will normally include:
  - a. Minutes of the previous meeting for approval and signing

- b. Reports seeking a decision from the committee
- c. Any item which a Member of the Committee wishes included on the agenda, provided it is relevant to the terms of reference of the Committee 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.

7. **Chair and Vice Chair's Term of Office.** The Chair and Vice Chair's term of office shall terminate on 1 April in each year and they shall each be reappointed or replaced by another member, according to the decision of the HWB, at the first meeting of the HWB succeeding that date.
8. **Absence of Members and of the Chair.** If a member is unable to attend a meeting, then the relevant Constituent Member shall, where possible, provide an appropriate alternate member to attend in his/her place. Where possible, the Clerk of the meeting will be notified of any absence and/or substitution within 5 working days of the meeting. The Chair shall preside at HWB meetings if s/he is present. In her/his absence the Vice-Chair shall preside. If both are absent the HWB shall appoint, from amongst its members Acting Chair for the meeting in question.
9. **Voting.** The HWB will operate on a consensus basis. Where consensus cannot be achieved the subject (or meeting) will be adjourned. The matter will then be reconsidered; if at that point a consensus can still not be reached the matter will be put to a vote. All matters to be decided by the HWB shall be decided by a simple majority of the members present, but in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote. All votes shall be taken by a show of hands unless decided otherwise by the Chair.
10. **Quorum.** A third of [Constituent Members/members] shall form a quorum for meetings of the HWB. 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 Chair shall either suspend business until a quorum is re-established or declare the meeting at an end.
11. **Adjournments.** By the decision of the Chair of the HWB, or by the decision of a majority of those present at a meeting of the HWB, meetings of the HWB may be adjourned at any time to be reconvened at any other day, hour and place, as the HWB shall decide.
12. **Order at Meetings.** At all meetings of the HWB it shall be the duty of the Chair to preserve order and to ensure that all members are treated fairly. S/he shall decide all questions of order that may arise.
13. **Suspension/disqualification of Members.** At the discretion of the Chair, any body 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 with the prior consent of the Chair or they breach the appropriate code of conduct.