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To: Selection and Member Services Committee

Date: 14 March 2013

Subject: Establishing the Kent Health and Wellbeing Board

Classification: Unrestricted

Summary:

This paper seeks the Committee's endorsement of the establishment of the Kent Health and Wellbeing Board (HWB), including Terms of Reference, Procedure Rules and membership, and onward recommendation to full Council for formal approval.

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1. **Background**.

1.1. Section 194 of the Health and Social Care Act 2012 specifies that an upper tier local authority must establish a Health and Wellbeing Board for its area.

1.2. Following on from papers to Selection and Member Services Committee and Full Council in the summer of 2011, a shadow Kent Health and Wellbeing Board was established and has been meeting on a bi-monthly basis since then. The legislation requires HWBs to be operational (non shadow) from 1 April 2013.

1.3. The legislation and regulations have been drafted with deliberate intention of allowing considerable flexibility for local authorities and their partners to set up and run HWBs that suit local circumstances. It is the intention behind the legislation that all members of the HWB should be seen as equals and as shared decision makers. HWBs are boards of commissioners, they are not commissioning boards.

2. **Health and Social Care Act 2012**

2.1. The 2012 Act outlines the duties and functions of the HWB, including:

- Encouraging integrated working, including the making of arrangements under section 75 of the National Health Service Act 2006.
- Performing functions in relation to the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
- Exercising any functions that are otherwise exercisable by the local authority.

There are a number of other responsibilities that the HWB may take on, which are currently identified in a number of pieces of draft legislation. Once these have become law, the HWB will be briefed on its new areas of responsibility.

2.2. Section 194 of the 2012 Act provides that a HWB is a committee of the local authority which established it, and is to be treated as if it were a committee appointed by that authority under section 102 of the Local Government Act 1972.

2.3. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, disapplies and modifies sections of the Local Government Act 1972 and the Local Government and Housing Act 1989 to enable the HWB (any sub-committee of the HWB) to be established as required under the 2012 Act.

2.4. The regulations disapply the political balance requirements; in addition they enable all members of the HWB to vote, unless otherwise directed by the local authority. They also remove the restriction on local government officers being able to be members of a local government committee.

2.5. The underlying principle of parity amongst members is strengthened by the modification of the 1972 Act, so that matters coming to the HWB are agreed by consensus or by a majority of members of the HWB, rather than by a majority of councillors present.

2.6. The 2012 Act and the regulations do not modify or disapply any previous legislation relating to codes of conduct and conflicts of interest. All non councillor members of HWBs are co-opted members for the purposes of complying with the legislation. This means that all members of the HWB will be governed by the Council's Code of Conduct for Members (including the declaration of Disclosable Pecuniary Interests).

2.7. The functions of HWBs do not fully conform to the usual model of executive or non-executive functions of local authorities, outlined in the regulations of the Local Government Act 2000.

3. Activity to date

3.1. The approach that the HWB has taken to both operating in shadow form and proactively developing a sub-committee structure, has been described by the Department of Health as a "shining example of what Health and Wellbeing Boards should be doing" and praised our desire to get on with the work of the board without waiting for detailed guidance from the centre. This paper formalises arrangements that have proven to work across both tiers.

3.2. This highly innovative approach has meant that Kent is the only two tier authority area to develop an approach based on localism; enabling Clinical Commissioning Groups (CCGs) and the District Councils in their areas to actively engage and deliver a bottom up approach to health and wellbeing.

4. Establishment of Sub Committees

4.1. Kent was one of only three county council areas where both the County Council and a District Council (Dover), established shadow HWBs. Based on the successful arrangements developed in Dover and subsequently across the

whole CCG area of South Kent Coast, a decision was taken by the shadow Kent HWB last autumn to support the development of CCG level HWBs as sub-committees of the Kent HWB. These sub-committees will undertake the following work in support of the strategically focussed Kent HWB:

- Develop CCG level Integrated Commissioning Strategy and Plan
- Ensure effective local engagement
- Local monitoring of outcomes
- Focus on locally determined health, care and public health needs.

4.2. By the end of March 2013, each CCG area will have a HWB set up for its area. The terms of reference and procedure rules will be based on those of the Kent HWB; Kent County Council's Code of Conduct for Members will apply to the sub-committees. As the approach that Kent has taken is so innovative, the Kent HWB will review these working arrangements after a year to share best practice and areas of development.

5. Relationship with Other Partnerships and Providers

5.1. The HWB has a clear and strategic role working across the health system in Kent as described above.

5.2. The key relationships are with the following partnerships:

- Children's Trust and Children's Commissioning arrangements
- Safeguarding Boards (Children and Adults)
- Provider engagement will be through Whole Systems Delivery Boards alongside a number of events throughout the year between the HWB and providers. Providers will also be involved in discrete pieces of HWB business which the HWB may wish to commission.
- Kent Council Leaders and Ambition Board. 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 remain important, reflecting the complexities of health and social care needs across Kent.
- District level public health 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.
- Community Safety Partnerships

6. Relationship to Health Overview and Scrutiny

6.1. There are fundamental differences in the roles of the HWB and the HOSC. The HOSC is scrutiny committee independent of the Executive, whereas the HWB is

a quasi-executive body and a committee of the council, which brings together commissioners from different agencies to co-ordinate health, social care and public health strategic approaches.

6.2. A separate paper on the revised governance arrangements for the HOSC has been developed. It outlines the relationship with the HWB as follows:

- The strategic reciprocity of the HOSC and HWB is recognised in relation to the unique role each fulfils. Membership of one will exclude membership of the other.
- The HOSC seeks to add value to the work of the HWB, while maintaining a distinct identity as a 'critical friend'. The HOSC has a role in contributing to the development of the JSNA and JHWS. It provides, where appropriate and upon request, a third party perspective on perceived conflicts between the JHWS and health commissioning plans,
- The HWB has the right to request that the HOSC undertakes specific reviews and make recommendations, subject to the approval of the HOSC.

7. **Proposed Membership and Terms of Reference** (see **Appendix A**)

7.1. The Health and Social Care Act identifies the statutory membership of the HWB as:

- At least one councillor of the upper tier local authority – Leader of the Council and/or their nominee
- Representative of each relevant Clinical Commissioning Group (one person may represent more than one CCG 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 organisation.
- Such other persons or representatives as the local authority thinks appropriate.
- NHS Commissioning Board (for the JSNA, HWB Strategy and matters relating to the commissioning functions of the NHS Commissioning Board).

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

- The Leader of Kent County Council or his nominee*
- Corporate Director for Families and Social Services*
- 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

* denotes statutory member of the HWB.

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

- Clinical Commissioning Group representation: up to a maximum of two representatives from each consortium (e.g. Chair of CCG Board and Accountable Officer)*
- A representative of the Local HealthWatch*
- A representative of the NHS Commissioning Board Local Area Team*
- Three elected Members representing the District/Borough/City Councils (nominated through the Kent Council Leaders)

  * denotes statutory member.

7.4. Both the CCG and Local Healthwatch representatives must be appointed by the CCG and Local Healthwatch respectively.

8. **Risks**.

8.1. Whilst the initial working relationship with the NHS Commissioning Board Local Area Team (NHS LAT) has been productive, it is unclear how proactive the NHS LAT will be in its engagement with both the Kent HWB and the CCG level HWBs. We hope that the CCGs and the HWBs will each be allowed to focus on developing a local approach to delivering health and care services.

9. **Financial Implications**.

9.1. A District Council in each of the CCG HWB areas has agreed to undertake the administration of the CCG HWBs. The administration of the Kent HWB has been undertaken for the last 18 months by Democratic Services, who will continue to support the HWB as a committee of the County Council. Because of the breadth of activity covered by the HWB, policy support to the HWB will be provided by BSS Policy and Strategic Relationships, Public Health and Families and Social Care Strategic Commissioning.

10. **Recommendations**

10.1. The 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.
b) Recommend to County Council the KCC membership of the HWB and the governance arrangements as set out in Appendix 1.

Appendices:

Appendix A – Governance arrangements

Background Documents:

Health and Social Care Act 2012
The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

Report to Selection and Member Services Committee, 7th June 2011.
Report to County Council, 21st July 2011.

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