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To: Health and Wellbeing Board – 17 July 2013

Subject: **WORKING ARRANGEMENTS BETWEEN BOARDS**

Classification: Unrestricted

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Summary: This report sets out proposals which are intended to help clarify the relationship between boards that have distinctive but complementary roles for promoting health and well being, safety of children and vulnerable adults in Kent.

FOR DECISION

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## Introduction

1. (1) By virtue of s.194 of the Health and Social Care Act 2012, Health Well Board (HWB) was established in April 2013. Evidence indicates that the HWB will take centre stage in overseeing a range of health and social care activities, including development of strategies, planning and commissioning and service provision. Therefore, clarifying the working relationship between the HWB and existing key partnership boards is paramount.

(2) A meeting took place on 14 November 2012 to discuss this matter, which involved:

- (a) Corporate Director of Families and Social Care
- (b) Cabinet Member for Business Strategy, Performance and Health Reform
- (c) Cabinet Member Specialist Children's Services
- (d) Cabinet Member Adult Social Care and Public Health
- (e) Director of Governance & Law
- (f) Independent Chair of Kent Safeguarding Children Board

(3) The main action from the meeting was that an options paper should be prepared for consideration which, once agreed, will confirm the relationship between the different partnership boards.

- (4) For the purpose of this report, partnership boards comprise the following:
- (a) Health and Wellbeing Board
  - (b) Kent Safeguarding Children Board (KSCB)
  - (c) Kent and Medway Safeguarding Vulnerable Adults Board (KMSVAB)

- (d) Kent Children and Young People's Joint Commissioning Board (KCYPJCB)

Two internal KCC boards that will also have an interest in the agreed working arrangements are:

- (a) Children's Services Improvement Panel
  - (b) Integrated Children's Services Board.
- (5) The key issues that this report addresses are:
- (a) the need to reduce duplication
  - (b) improving the quality of governance and decision making
  - (c) promoting integrated working and provision

The examination of each of these issues generates different propositions, which are considered below.

(6) This report also provides an account of the evolving working relationship between similar boards in other areas of England, as a reference. The report also describes three options which relate to the key issues listed in paragraph 1(5) and, makes recommendations which, if accepted, could lead to the development of protocol on working arrangements.

## **Legal Context**

2. (1) The statutory origin of the HWB is found in s.194 of the Health and Social Care Act 2012, which requires that a HWB must be established by a local authority with social services responsibilities. The statutory provisions came into effect as of 1 April 2013.

(2) Children's Trust arrangements are underpinned by the 'duty to cooperate' provision of s.10 of the Children Act 2004 and were established formally under s.12A of the same Act. However, the prescriptive statutory guidance was withdrawn on 31 October 2010. Each area must still have a Children's Trust Board, but how it operates, what it is called and how it will work with the HWB is a matter for local determination. As a result the KCYPJCB has replaced the former Kent Children's Trust.

(3) Kent Safeguarding Children Board, on the other hand, has its statutory underpinnings in s.13 of the Children Act 2004. This requires local authorities to have a Local Safeguarding Children Board. The Department of Education has published revised statutory guidance on the functions of the Local Safeguarding Children Board (Working Together to Safeguard Children, March 2013), which frames how the Board functions.

(4) Kent and Medway Safeguarding Vulnerable Adults Executive Board operates under the s.7 of the Local Authority Social Services Act 1970. The 'No Secrets' guidance issued by Department of Health required local authorities to set up a multi-agency framework to protect vulnerable adults at the risk of abuse. Putting Safeguarding Adults Boards on a statutory footing formed part of the recommendations of the Law Commission review into adult social care law. A clause to this is found in the the draft Care and Support Bill which is before Parliament.

(5) One general observation is that the children's commissioning landscape is complicated but the provision is more straight forward. Compared this to adults commissioning, which is more straight forward but the provider landscape is more complex.

(6) This then, is the backdrop to the accountability and relationship issues that, in the interest of effective working arrangements, the need to save time and make best use of resource, we are keen to resolve. The next section of the paper describes the scene of the evolving landscape in Kent.

### **Established and emerging relationships in Kent**

3. (1) The role of the HWB has been defined as leading and advising 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). It has interest in securing better health and wellbeing outcomes in Kent and better quality of care for all patients and care users. Making sure that health care services paid for by public monies are provided in a cost-effective manner falls within primary responsibility of the HWB. The current membership of the HWB is set in its terms of reference.

(2) The work of the HWB is supported by seven Clinical Commissioning Group level HWBs.

(3) The KCYPJCB's purpose and remit is to improve outcomes for children and young people through the effective commissioning of services in partnership with a range of agencies, ensuring resources are prioritised according to need and where they achieve the most impact. The KCYPJCB functions as the lead commissioning group for the prioritising and coordination of services commissioned for children and young people, and it takes decisions about how resources are allocated across services for children and young people.

(4) The KCYPJCB is supported by four sub-groups which assist the KCYPJCB in discharging its responsibilities. The sub-groups are:

- (a) Children Living Away from Home
- (b) Early Intervention and Prevention
- (c) Emotional Health and Wellbeing
- (d) Disabled Children.

Protocols governing the working arrangements between the KSCB and the Kent Children and Young People's Joint Commissioning is in place. In accordance with the agreement the Protocol is reviewed annually.

(5) The key purpose of KSCB is to co-ordinate what is done by each person or body represented on the KSCB for the purposes of safeguarding and promoting the welfare of children in Kent, and to ensure the effectiveness of what is done by each person or body for that purpose. The work of KSCB is regarded as part of the wider context of 'Children's Trust' cooperation arrangements that aim to improve the overall wellbeing of all children in Kent

(6) The KSCB has several working/reporting groups which support it in undertaking its responsibilities, comprising

- (a) Quality & Effectiveness
- (b) Learning & Development
- (c) Serious Case Reviews
- (d) Child Death Overview Panel
- (e) Health Safeguarding Group
- (f) Education Advisory Group
- (g) Trafficking Children and Sexual Exploitation

(7) KMSVAB takes a strategic lead on safeguarding matters. It also co-ordinates the safeguarding activities of partner agencies in the two local authority areas. The aim of the Board is to safeguard vulnerable adults living in Kent and Medway through a multi agency approach ensuring their safety, independence and well being. The Board sets priorities, determines resources and oversees performance management framework.

(8) In 2012 the KMSVAB undertook a review of its sub-structure as part of the overall governance review. As a result of the review the Board's sub-group will focus on Serious Case Review, Quality Assurance, Learning and Development, and policy, protocols and procedures.

## **Evolving relationships in other areas**

4. (1) As a consequence of the current changes within local authorities, public health and the NHS, it is important to avoid confusion about responsible and accountable bodies. One of the central challenges associated with partnership working, is clarifying the lines of accountability between boards with distinctive but complementary roles. To underline this, the Local Government Association commissioned the National Foundation for Educational Research to investigate local authorities' approaches to their children's trust arrangements and how they are fulfilling their duty to promote cooperation with partners to improve children and young people's health and wellbeing<sup>1</sup>.

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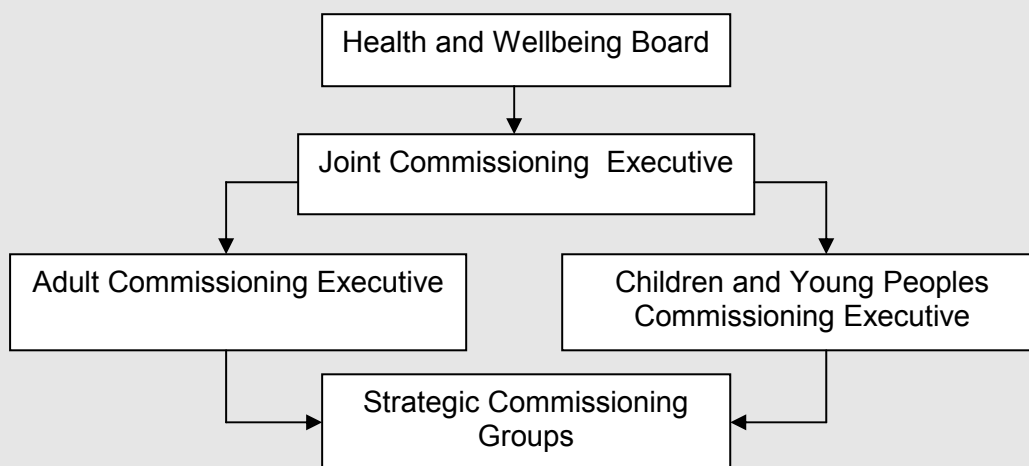
<sup>1</sup> Easton, C.; Hetherington, M., Smith, R., Wade, P., Aston, H. and Gee, G. (2012). *Local Authorities' Approaches to Children's Trust Arrangements* (LGA Research Report). Slough: NFER. The advice the report gave related to:

(1) reviewing existing structures and partnerships to ensure they remain focused relevant and as streamlined as possible, (2) having strong leadership and management within individual organisations and collectively, (3) clearly outlining current and future areas of priority, need and direction of travel, (4) ensuring local authority senior leaders, including Directors of Children's Services and lead members for children's services, are represented on children's and health bodies to ensure issues are discussed and decisions made quickly, (5) developing clear terms of reference for the Health and Wellbeing Board and sharing its focus with other bodies, including the local authorities, CCGs and LSCB, (6) collectively developing a shared vision and priorities, (7) developing a strong evidence base built on robust needs analysis, (8) developing positive relationships with partners based on trust, respect, common understanding, dialogue and a commitment to working together, (9) promoting information sharing between partners and children's and health bodies, (10) understanding and developing the workforces across the local authority, health bodies and partner organisations, (11) embedding children and young people's needs into the JSNA, ensuring it is not perceived as an add-on and (12) raising communities' awareness of the importance of health and wellbeing and early help.

(2) Working arrangements between partnership boards across the country are being approached in a variety of ways. The following examples from other areas have been pulled together to inform the discussions in Kent.

**Hertfordshire: Outline Health and Wellbeing Board Governance Structure**

The draft constitution provides that “the Board will directly oversee the commissioning of those services where a section 75 agreement between health and social care partners is in place including taking strategic oversight and assume delegated responsibility for all those areas where a Section 75 Agreement is in place for the pooling of commissioning budgets”.



**Oxfordshire: Outline of the protocol on the working arrangements between the Oxfordshire Safeguarding Adults Board and the Oxfordshire Health and Wellbeing Board<sup>2</sup>**

The Oxfordshire HWB and the Oxfordshire Safeguarding Adults Board have an on-going and direct relationship, communicating regularly through identified lead individuals.

The Chair of the Oxfordshire Safeguarding Adults Board attends the HWB annually.

The Independent Chair of the Oxfordshire Safeguarding Adults Board, the Deputy Director of Adult Social Care and the Cabinet Member for Adult Services liaise closely with regards to the effective operation of both bodies.

The Oxfordshire Safeguarding Adults Board provides an annual report to the HWB setting out an honest assessment of local safeguarding arrangements.

If there are any areas of significant concern that cannot be resolved in accordance with the Protocol then a strategy meeting will be held between the Independent Chair of the Oxfordshire Safeguarding Adults Board, the Chair of the Adult Health and Social Care Board, the Deputy Director of Adult Social Care and the Chief Executive of the County Council and any other senior person that is regarded as being required.

**Nottinghamshire Integrated Governance between the Health and Wellbeing Board and Children’s Trust<sup>3</sup>**

<sup>2</sup> There is also protocol on the working arrangements between the Oxfordshire Safeguarding Adults Board and Oxfordshire Children and Young Peoples Partnership Board.

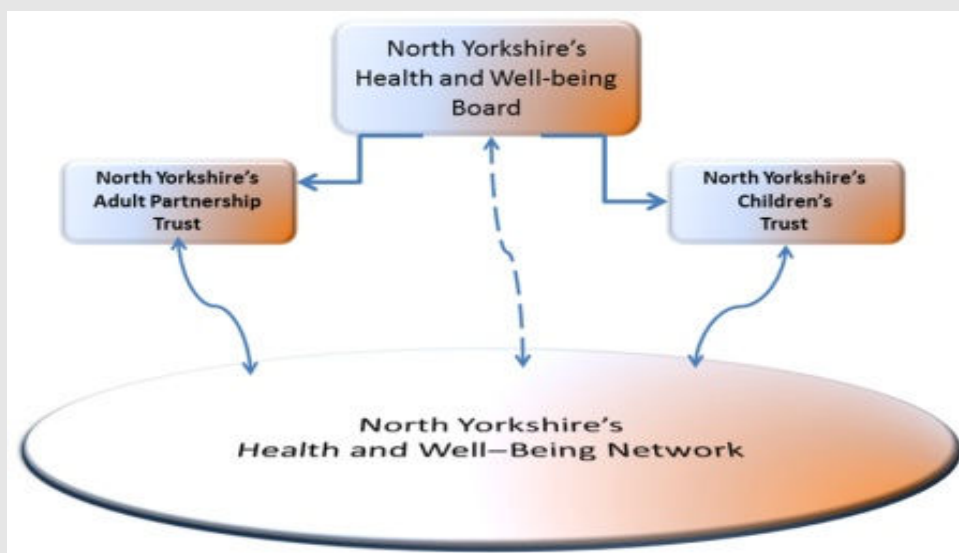
<sup>3</sup> Children and Young People and Health and Wellbeing Boards, Putting policies into practice, June 2012, DH.

In Nottinghamshire, the Shadow HWB was established in 2011 as part of the Government's early adopter programme. The early work on the HWB coincided with a review of the future operating model for the Children's Trust. As a result, the Trust decided that it would be integrated with the governance structure of the HWB. "A key feature is that the chair of the Children's Trust sits on the HWB. The sub-structure implementation group includes the Chair of the Children's Trust and the Independent Chair of the Local Safeguarding Boards (children's and adults).

"One of the most positive outcomes from this collaborative approach is a decision made by the HWB to commission the Children's Trust to provide a report to the Board which 'audits' the current local arrangements for children against key questions and challenges which emerged from the national learning set"

### North Yorkshire Health and Wellbeing Board Structure

The HWB has two primary 'doing arms', to drive forward the day-to-day work of the board. One is the [North Yorkshire's Children's Trust](#) and the other [North Yorkshire's Adult Partnership Trust](#). The North Yorkshire HWB structure consists of the Board in its leadership role; the two substructures in their action/implementation/doing roles; and the wider health and wellbeing network of boards, partnerships and communities of interest in their shaping, influencing, contribution and calling to accountability roles.



(3) Clearly, there is no one universally applicable model. It would seem that each area has to find the best fit, in the context of local partnership arrangements and other factors. Without a doubt the network of partnership boards must be engaged in arriving at a way forward that best suits the Kent conditions.

### Options on working arrangements between boards in Kent

5. (1) In light of the issues outlined above, the options that Kent could consider are as follows:

- (a) **Option 1(A):** Merging KMSVAB with the KSCB.
- (b) **Option 1(B):** Integrating KMSVAB and the KSCB with the HWB.

(c) **Option 2:** Harmonising the arrangements by securing changes to improve and align the terms of reference of relevant boards, which will be reflected in agreed working protocols with clear reporting lines.

(d) **Option 3:** The HWB with delegated responsibility for all s.75 Agreements.

(2) As stated in paragraph 1(4) above, if reducing duplication in the present arrangements is the overriding concern, the potential options centre on aligning, merging or integrating certain boards would include:

(a) **Option 1(A):** Merging KMSVAB with the KSCB.

(b) **Option 1(B):** Integrating KMSVAB and the KSCB with the Kent Shadow HWB.

(2) Option 1(A) is not without its challenges, in as much as, external scrutiny bodies (particularly Ofsted) have been known to hold a critical view of single adult and children's safeguarding boards. Having said that, there are other areas that operate combined boards. There will be a need to ensure that such arrangements do not lead to dilution of focus, which risks either of the safeguarding responsibilities being effectively discharged.

(3) It is important to take account of the journey that KCC and partners have been on since the Ofsted inspection of 2010 in considering this option. Moving ahead with this option has to be carefully timed even if there is confidence that the necessary conditions are in place.

(4) The factors that have to be considered under Option 1(B) are not as challenging as those under Option 1(A) based on the evidence from other areas. As shown above with the Nottinghamshire example, it is possible to construct the integration of children's trust arrangements within the HWB structure. The timing, however, has to be right. The HWB was recently established as a statutory body in April 2013, it is reasonable to expect the new body to use its first year of operation for embedding its fundamental arrangements.

All the same, option 1(B) should form part of the initial discussion prior to arriving at a settled position.

(5) If, on the other hand, improving the quality of governance and decision making is the main issue to be addressed, the most sensible way forward as we have seen unfolding elsewhere will be the following option:

**Option 2:** Harmonising the arrangements by securing changes to improve board to board arrangements which will be reflected in agreed working protocols with clear reporting lines.

This will call for the development of, and the agreement to, revised, standardised and complementary governance arrangements and working protocols between the boards listed in 1(4) above. It would be sensible to specify the working arrangements between the HWB and the other three boards in a single working protocol, as has been done in Oxfordshire.

(6) This option has certain inherent attractions. It will lead to the clarification of reporting lines as well as providing the opportunity for working on areas of mutual interest. In addition, the protocol can be developed and gain collective sign-up by the boards within short period of time.

For these reasons, Option 2 is recommended for consideration as the short term solution.

(7) The third option, which perhaps is the most radical of those mentioned above, is based on the understanding that promoting integrated working and provision is the overriding objective. Thus, the option which should be pursued in the long term is the following:

**Option 3:** The Health Wellbeing Board with delegated responsibility for all s.75 Agreements.

Opting for this option will mean that the Kent HWB will have the authority and responsibility to carry out those functions delegated to it by KCC and others which, where the constituent organisations agree, should be the responsibility of the HWB.

(8) There are compelling reasons for regarding this option as a credible platform for engineering effective pooled commissioning budgets partnership<sup>4</sup>. It has the potential to remove some of the current difficulties that people who rely on services face. It will in effect raise the bar of joint commissioning aspiration that, to date, we have seen given an expression through the Kent Health Commission. It will make the Kent Health Commission, a truly Kent Health Commission enterprise. The HWB would also be familiar with recent government announcement that by 2018 health and social care integration would be the norm<sup>5</sup>.

(9) However, any enthusiasm that this option generates would clearly be dampened by counter-factual issues relating to

- (a) obtaining buy-in to the direction of travel from all concerned
- (b) the development of a clear constitution
- (c) a shared vision and priorities and
- (d) A positive relationship based on mutual trust and a commitment to joint working.

For these reasons, Option 3 is recommended for consideration as the long term solution.

## **Conclusion**

6. (1) As this report has depicted, as a result of the current changes within local authorities, public health and the NHS, there is a need to avoid confusion about responsible and accountable bodies regarding key activities. A key challenge associated with partnership working is clarifying the lines of accountability between boards with distinctive but complementary roles.

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<sup>4</sup> DH Winterbourne View Review Concordate: Programme of Action makes the case that 'the strong presumption will be in favour of supporting this with pooled budgets arrangements with local commissioners offering justification where this is not done.

<sup>5</sup> Integrated Care and Support: Our Shared Commitment, National Collaboration for Integrated Care and Support



(2) This report has drawn on emerging information from other areas to inform the debate in Kent. A number of options have been described which, depending on the appetite for resolution Kent, can move us forward in both the short and long term.

## Recommendations

7. (1) The Health and Wellbeing Board consider the contents of this report and a proposed course of action.
- (2) ENDORSE the development of a working protocol as outlined in paragraph 5.5 above.

## Background Documents

Health and Social Care Act 2012

Easton, C.; Hetherington, M., Smith, R., Wade, P., Aston, H. and Gee, G. (2012). *Local Authorities' Approaches to Children's Trust Arrangements* (LGA Research Report). Slough: NFER

Children and Young People and HWBs, Putting policies into practice, June 2012, DH

Terms of reference of the following boards:

Kent (Shadow) Health and Well Being Board

Kent Safeguarding Children Board

Kent and Medway Safeguarding Vulnerable Adults Executive Board

Kent Children and Young People's Joint Commissioning Board

KCC Children's Services Improvement Panel and

KCC Integrated Children's Services Board.

<http://www.hertscvs.org.uk/news.asp?newsID=121>, <http://www.hertsdirect.org/your-council/hcc/partnerwork/hwb/hwbcyp/>

[http://www.nhsconfed.org/Publications/Documents/health\\_and\\_wellbeing\\_boards\\_putting\\_policies\\_into\\_practice210612.pdf](http://www.nhsconfed.org/Publications/Documents/health_and_wellbeing_boards_putting_policies_into_practice210612.pdf)

<http://nypartnerships.org.uk/index.aspx?articleid=16804> and <http://nypartnerships.org.uk/index.aspx?articleid=19041>

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