

By: Roger Gough, Cabinet Member for Education and Health Reform
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To: Kent Health and Wellbeing Board

Date: 20 November 2013

Subject: Revisions to terms of reference for CCG level health and wellbeing boards

Classification: Unrestricted

For Decision: The Kent Health and Wellbeing Board is asked to:

1. Agree the amendments to the terms of reference and procedure rules set out in Appendix 1 of this report;
2. Review the arrangements after one year of operation.

Background

1. On 29 May 2013, the Kent Health and Wellbeing Board (HWB) resolved to establish a series of CCG level Health and Wellbeing Boards (local HWBs) to focus on the following key areas:
 - CCG level Integrated Commissioning Strategy and Plan
 - Ensure effective local engagement
 - Local monitoring of outcomes
 - Delivery of local projects
2. As sub-committees of a Kent County Council committee, the governance arrangements (e.g. terms of reference and declaration of pecuniary interests) are the same as those applied to any other County Council committee or sub-committee.
3. The terms of reference for the local HWBs were drafted to be as flexible and permissive as possible within the KCC governance arrangements.
4. The seven local HWBs based around CCG boundaries have all been set up and are meeting regularly. Some are still new and have held preliminary meetings whilst others have been meeting for longer and are quite well established.

5. A number of issues have arisen relating to terms of reference and although none has been sufficiently serious to affect the business of the local HWBs it is important they are resolved.
6. The issues requiring clarification within the terms of reference are:
 - a) The status of district council officers as potential members of local health and wellbeing boards and whether they would be bound by the Kent Code of Conduct requiring them to disclose pecuniary and other significant interests;
 - b) Arrangements for the completion and registration of disclosable pecuniary interests and resolving any potential conflicts of interest;
 - c) The flow of business between local HWBs and the HWB;
 - d) Representation of local HWBs at the HWB;
 - e) Public participation arrangements in meetings of local HWBs;
 - f) Scrutiny and Call-In arrangements for local HWBs;
 - g) Decision-making arrangements

2. District Council Officers

- 2.1 The status of district council officers and dealing with potential conflicts of interest was discussed at the Kent Secretaries meeting held on 10 September 2013.
- 2.2 It is highly unusual to have officers and external partners voting on a council committee or sub-committee. The Health and Social Care Act 2012 established health and wellbeing boards as forums for collaborative local leadership and were to be different from ordinary local authority committees in a number of important areas. The Act requires that the Director of Adult Social Care, the Director of Children's Services and the Director of Public Health be members of the HWB. There are however no such officers at district/borough or city level. The predominant feeling of district, borough and city council officers is that they should not be formal members of local HWBs and should attend meetings in an advisory capacity.
- 2.3 It is therefore proposed that the terms of reference and procedure rules for local HWBs be amended to make it clear that all council officers are advisory members and as such are not subject to the Kent Code of Conduct for Members.

3. Arrangements for the completion and registration of disclosable pecuniary interests and resolving any potential conflicts of interest

- 3.1 The Register of Disclosable Pecuniary Interests is held by the KCC Monitoring Officer.

- 3.2 Kent County Council has written to all members of the local HWBs asking for Declarations of Pecuniary Interests forms to be completed. As soon as forms are completed and received by Democratic Services they are published on the KCC website.
- 3.3 Work is underway to create links between the HWB web pages and district, borough and city councils' websites.
- 3.4 A guidance note on the Kent Code of Conduct for Members has been circulated to all members of local HWBs.
- 3.5 The nature of health and wellbeing boards may lead to conflicts of interest among members particularly in relation to the representatives from CCGs who are both providers and commissioners of services. As the local HWBs are sub-committees of the HWB, any conflicts of interest will be resolved in accordance with the Kent Code of Conduct for Members and with the advice of the Monitoring Officer.

4. The flow of business between local and county boards

- 4.1 The relationship between the local HWBs and the HWB continues to develop and common expectations about how business will flow need to be established. All local HWBs are keen to set out a work programme based on common themes and priorities linked to the needs of local population and most are looking to synchronise their business with that of the HWB.
- 4.2 A meeting of the chairs of all the local HWBs and the chairman of the HWB is planned for 19 December 2013.
- 4.3 A memorandum of understanding may be required but at this time no amendments are proposed to the terms of reference or procedure rules for the local HWBs.

5. Representation of local boards at the Kent Health and Wellbeing Board

- 5.1 Local HWBs are represented on the Kent HWB by one of their members who is also a member of the Kent HWB.

6. Public participation arrangements in meetings of local HWBs

- 6.1 The arrangements for district, borough and city council meetings vary with regard to the ability and rights of members of the public to participate in meetings. KCC's constitution allows very limited public participation at meetings. Among local HWBs there are different approaches to the involvement of the public in meetings, with some boards opting to invite contributions from the public in various ways, while others "meet in public" rather than have "public meetings".

- 6.2 As the local HWBs are sub-committees of the HWB, KCC's Constitution regarding formal arrangements for public participation at meetings prevails. There may, however, be times when it is appropriate to hear from members of the public or other local organisations about matters being discussed and this is a matter for local discretion. Therefore no changes are proposed to the terms of reference or to the local HWBs' procedure rules.

7. Scrutiny and Call-In arrangements for local HWBs

- 7.1 Formal health scrutiny powers under the Health and Social Care Act 2012 are exercised by the Health Overview and Scrutiny Committee at Kent County Council. However, under the regulations, these powers do not automatically include scrutiny of the HWB or local HWBs. Any issues that arise will be dealt with in accordance with the Protocol for Overview and Scrutiny Inter-Authority Co-operation and the Protocol for the Health Overview and Scrutiny Committee in KCC's Constitution. The guiding principle for health scrutiny activity at county, district and borough level is that it seeks to be complementary and not unnecessarily duplicate work.

8. Decision making arrangements for local HWBs

- 8.1 It is expected that wherever possible the local Health and Wellbeing Boards will conduct their business on the basis of reaching an agreed consensus. Currently it is also the case that the Boards have no delegated decision making powers and therefore are not able to take independent decisions that are binding upon their constituent organisations and it is unlikely that voting will be necessary under present arrangements.
- 8.2 During the evolution of the local Boards across the County it has become evident that there are substantial differences between the Kent HWB and the local boards. For example the officer representation on the Kent Board is designated by the Health and Social Care Act 2012 and applies to specific officer posts. These posts do not exist at district level and there are no direct equivalents. The Kent HWB is based on local authority geography whereas the local boards follow CCG boundaries. This means there are local boards that include one district authority within their area whilst others contain up to four. At the Kent HWB the principle of no one set of organisations being able to outvote any of the others can be relatively simply applied but this is not the case for all of the local boards given their various configurations.,
- 8.3 There is no single solution that can easily reconcile the variation in membership of boards across the county. The simplest solution is the one proposed in the attached draft governance arrangements which requires the local boards to operate through achieving consensus and obviates the need for voting and recognises that no decision making responsibilities have been delegated to the boards.

9. Conclusion

- 9.1 The local HWBs' terms of reference and procedure rules are attached at **Appendix 1** and for ease of reference include the amendments proposed in the paragraphs above.

Recommendations

The Kent Health and Wellbeing Board is asked to:

1. Agree the amendments to the terms of reference and procedure rules set out in Appendix 1 of this report;
2. Review the arrangements after one year of operation

Background Documents - none

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