

By: David Cockburn, Corporate Director Strategic and Corporate Services

To: Selection and Member Services Committee – 25 April 2014

Subject: Revision to the Joint Accountability Protocol for the Director of Children's Services and the Lead Member for Children's Services

Summary: This paper presents the revised Accountability Protocol for the Director of Children's Services and the Lead Member for Children's Services which forms part of the Constitution. Changes are required to reflect the statutory guidance issued by the Secretary of State for Education in April 2013, and in response to the new Directorate Structure approved by County Council in December 2013.

Recommendation:

That the Selection and Member Services Committee is asked to:

- (i) **Recommend** to the County Council that it adopts the revised Accountability Protocol for the Director of Children's Services and Lead Member for Children's attached as Appendix 1.

For Decision

1. INTRODUCTION:

1.1 In July 2012, the County Council approved the Joint Accountability Protocol to ensure the fulfilment of the Director of Children's Services (DCS) and Lead Member for Children's Services (LMCS) roles under the existing organisational structure.

1.2 The Protocol, which forms part of the Constitution of the County Council, ensures accountability against organisational structure has regard to statutory guidance and is used to provide assurance to the Secretary of State and Ofsted that the Council is meeting its duties with regard to the statutory roles of the DCS and LMCS.

1.3 The latest statutory guidance on the roles and responsibilities of the DCS and LMCS was issued in April 2013 under section 7 of the Local Authority Social Services Act 1970. It requires local authorities to have regard to the guidance unless they can demonstrate good reasons for departing from it. It acknowledges that it is for individual local authorities to determine their organisational structures in the light of local circumstances. Therefore, whilst the Council's arrangements do not strictly reflect the statutory guidance in not having both a single officer and a single elected member each responsible for

both education and children's social care, there are good reasons for doing so, as set out below.

1.4 KCC has strong and resilient director-level support in place to assist the DCS, with matching Executive-side arrangements for the LMCS. These arrangements have been subject to external review, including Ofsted inspections in 2013 and most recently through the LGA Corporate Peer Challenge in March 2014, as well engagement with NHS England.

1.5 The Kent Integrated Children's Service Board exercises a senior level oversight and leadership role for the Council, with a clear line of accountability for the commissioning and/or provision of services designed to safeguard and promote the welfare of children. The Council can be assured that arrangements are in place to enable the effective discharge of the responsibilities outlined in the statutory guidance in relation to education and children's social care.

1.6 The Protocol now needs to be updated in the light of the latest statutory guidance and the "Facing the Challenge: Phase 1 update and new directorate structure", approved by the Council in December 2013. This revision also provides the opportunity to strengthen the Protocol, in light of our distributed model of accountability for Children's Services, taking account of the lessons learned from its application during the last 18 months. The revised Protocol is attached as **Appendix 1**. Consultation is still taking place at the time of publication therefore the Committee will be provided with updated information if there are any additional changes.

2. CHANGES AS A RESULT OF TOP TIER REALIGNMENT:

2.1 The Protocol has been updated throughout to reflect the roles and responsibilities of the Director of Social Care, Health and Wellbeing and the Director of Education and Young Peoples Services within the new organisational structure.

3. REVISIONS TO STRENGTHEN THE PROTOCOL:

3.1 In order for the DCS and LMCS to gain assurance about any concerns they may have regarding the delivery of those responsibilities allocated to other Corporate Directors or Cabinet Members, the Protocol now includes a time-framed process for escalation (Paragraphs 18-20).

3.2 The Protocol includes a description of the pre-conditions that would prompt referral to the process of escalation (Paragraph 20).

3.3 The Protocol will be reviewed as required to account for any future changes to relevant statutory guidance, and sets out the arrangements for review of its efficacy, which will be reported and managed through the Council's Annual Governance Statement process (Paragraph 21).

RECOMMENDATION:

That the Selection and Member Services Committee is asked to:

- (i) **Recommend to the County Council** the revised Accountability Protocol for the Director of Children's Services and Lead Member for Children's attached as Appendix 1.

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KENT COUNTY COUNCIL

Accountability Protocol for the Director of Children's Services and Lead Member for Children's Services

1. This Protocol is designed to ensure that the Council fulfils the legal requirement to designate both a single officer and a single elected Member, each responsible for both education and children's social care, and meets the accountability requirements as set out in the Statutory Guidance on the Roles and Responsibilities of the Director of Children's Services and the Lead Member for Children's Services (April 2013) – ensuring that between them, the Director of Children's Services and Lead Member for Children's Services provide a clear and unambiguous line of local accountability for improving outcomes for children and young people.
2. The Corporate Director Social Care, Health and Wellbeing is appointed by the Council as its statutory Director of Children's Services (DCS) ; and the Cabinet Member for Specialist Children's Services is designated by the Leader as the Council's statutory Lead Member for Children's Services (LMCS).
3. The range of services that fall across the statutory accountabilities of the DCS and LMCS are managed within the Social Care, Health and Wellbeing Directorate and the Education and Young Peoples Services Directorate and by the respective Cabinet Members for those services.
4. This Protocol ensures that the DCS and the LMCS are able to meet their statutory responsibilities and have an integrated children's services brief, ensuring the safety and the educational, social and emotional needs of children and young people.
5. The DCS and the Corporate Director Education and Young People's Services (CDEY) are both members of the Corporate Management Team and are directly accountable to the Head of Paid Service for the performance of their duties. The CDEY is accountable to the DCS (as the statutory post holder) and is required to provide pro-active assurance and accountability to the DCS for the functions described in Paragraph 10 and the requirements of this Protocol through the mechanism set out in Paragraph 11.
6. At all other times the two corporate directors referred to in this Protocol will be considered as equal colleagues and equal and full members of the Corporate Management Team.
7. The DCS is responsible for
 - (a) improving outcomes for children and young people, children's social care functions and local cooperation arrangements for children's services;

- (b) driving the development of the local Joint Strategic Needs Assessment (JSNA) and joint health and wellbeing strategy;
 - (c) promoting the interests of children, young people and their families;
 - (d) joining up local commissioning plans for clinical and public health services with children's social care and education, where appropriate, to address the identified local needs through JSNA and Joint Health and Wellbeing Strategy;
 - (e) making a key contribution to ensuring effective working relationships between the health and wellbeing board and the LSCB;
 - (f) any agreements made under section 75 of the National Health Service (NHS) Act 2006 between the council and NHS relating to children and young people, e.g. pooled budgets for commissioning and/or delivering integrated services covering children's health, social care and education;
 - (g) ensuring collaboration and dialogue with the family courts so that high quality local authority assessments and other evidence contribute to effective and timely court processes for children;
8. The LMCS is an elected Member with delegated responsibility from the Council, through the Leader, for children's services. The LMCS, as a member of the Council's Executive, has political responsibility for the leadership, strategy and effectiveness of local authority children's services. The LMCS is also democratically accountable to local communities and has a key role in defining the local vision and setting political priorities for children's services within the broader political context of the Council.
9. The LMCS is a Cabinet Member and accountable to the Leader of the County Council for children's services as set out within this Protocol. Other Cabinet Members, who the Leader appoints and carry some responsibilities beyond the LMCS that are relevant to the delivery of this Protocol, are also accountable to the Leader for their responsibilities as set out in Appendix 2 Part 4 of the Constitution of Kent County Council.
10. The DCS and LMCS in their respective roles:
- (a) have a shared responsibility with all officers and members of the local authority to act as effective and caring corporate parents for looked after children, with key roles in improving their educational attainment, providing stable and high quality placements and proper planning for when they leave care;
 - (b) ensure that the needs of all children and young people, including the most disadvantaged and vulnerable, and their families and carers, are addressed;
 - (c) understand local need and secure provision of services taking account of the benefits of prevention and early intervention and the importance of co- operating with other agencies to offer early help to children, young people and families;
 - (d) ensure there are clear and effective arrangements to protect children and young people from harm (including those attending independent schools);
 - (e) work together to provide strong, strategic local leadership and development of an increasingly autonomous and diverse education and children's services sector;

- (f) ensure that children's services are integrated across the council to support, for example, a smooth transition from children's to adults' services;
- (g) involve and listen to parents, carers, children and young people;
- (h) have a key role in ensuring that the local voluntary and community sector, charities, social enterprises, the private sector and children and young people themselves are included in the scope of local authority planning, commissioning and delivery of children's services, where appropriate;
- (i) lead, promote and create opportunities for co-operation with local partners (e.g. health, police, schools, housing services, early years, youth justice, probation, higher and further education, and employers) to improve the well-being of children and young people;
- (j) establish local co-operation arrangements to reduce child poverty, prepare and publish a local child poverty needs assessment, and prepare a local child poverty strategy;
- (k) promote children's and young people's participation in public decision-making so they can influence local commissioners;
- (l) ensure that children and young people are involved in the development and delivery of local services;

And through the work of other relevant Cabinet Members, the CDEY and their director-level support:

- (a) ensure that disabled children and those with special educational needs (SEN) can access high quality provision that meets their needs and fund provision for children with statements of SEN;
- (b) ensure arrangements are in place for alternative provision for children outside mainstream education or missing education (e.g. due to permanent exclusion or illness) to receive suitable full-time education;
- (c) ensure there is coherent planning between all agencies providing services for children involved in the youth justice system (including those leaving custody), secure the provision of education for young people in custody and ensure that safeguarding responsibilities are effectively carried out;
- (d) ensure that headteachers, school governors and academy sponsors and principals are supported in the drive for high educational standards for all children and young people;
- (e) ensure provision for suitable home to school transport arrangements;
- (f) ensure a diverse supply of strong schools is actively promoted;
- (g) ensure the promotion of high quality early years provision, and ensure there are sufficient Sure Start children's centre services to meet local need and sufficient childcare for working parents;
- (h) ensure access for young people to sufficient educational and recreational leisure-time activities and facilities for the improvement of their well-being and personal and social development;
- (i) ensure fair access to all schools for every child in accordance with the statutory School Admissions and School Admissions Appeal Codes;
- (j) ensure the promotion of participation in education or training of young people, including securing provision for young people aged 16-19 (or 25 for those with learning difficulties/disabilities);

- (k) ensure rapid and decisive action is taken in relation to poorly performing schools;
 - (l) ensure the development of robust school improvement strategies;
 - (m) ensure the promotion of high standards in education by the support of effective school-to-school collaboration and the provision of local leadership for tackling issues needing attention which cut across more than one school;
 - (n) ensure that maintained schools are supported in delivering an appropriate National Curriculum and early years providers in meeting the requirements of the Early Years Foundation Stage (as outlined in the EYFS Statutory Framework);
 - (o) ensure a schools forum is established for the Kent area, a scheme is maintained for financing maintained schools and financial information is provided;
 - (p) ensure that responsibilities in relation to staffing and governance of maintained schools are undertaken;
 - (q) ensure that the needs of all children and young people, including the most disadvantaged and vulnerable, and their families and carers, are addressed;
11. This Protocol is enacted through regular meetings of a Kent Integrated Children's Services Board, established to ensure strong governance, facilitate and seek pro-active assurance regarding the execution of the duties and accountabilities of the LMCS and the DCS and provide the primary mechanism for raising and remedying concerns or challenges.
 12. The Board is not primarily responsible for service delivery, nor is it intended to replace or substitute the active management of services, but it is responsible for the efficacy of all services to children delivered by the Council (and those delivered in partnership as covered by the remit of the role of the DCS and LMCS as described in this Protocol).
 13. All Corporate Directors and Cabinet Members shall provide pro-active assurance to the Board of the effective discharge of those responsibilities that fall within the remit of the DCS and LMCS.
 14. The timing of meetings is determined by the DCS and LMCS, but should be not less than quarterly. Membership will include, but not be limited to:
 - (a) the Leader
 - (b) DCS
 - (c) LMCS
 - (d) CDEY
 - (e) Other relevant Cabinet Member(s)(see paragraph 9, above)
 15. These meetings:
 - (a) provide a regular and formal opportunity for the DCS and LMCS to be proactively assured that their statutory duties are being met by the relevant Cabinet Members, Corporate Directors, Directors and Heads of Service;

- (b) enable the DCS and LMCS to validate, challenge and, as necessary, direct activity to ensure that their statutory duties are being met;
 - (c) are minuted and maintained as a formal record of the discharge of this Protocol.
16. Should the DCS identify particular areas of concern or consider that their statutory duties are not being met, this should be raised with the Head of Paid Service within three working days.
17. Should the LMCS identify particular areas of concern or consider that their statutory duties are not being met, this should be raised with the Leader within three working days.
18. The arrangements for review of the efficacy of this protocol are:
- (a) Every six months the DCS and the LMCS will provide the Head of Paid Service and the Leader with assurance that they are satisfied this Protocol is sufficient to discharge their statutory responsibilities;
 - (b) The efficacy of this Protocol will be reviewed as part of assurance activity on the overall corporate governance of the Council undertaken on a periodic basis by the Council's internal audit function;
 - (c) Any issues or concerns regarding the efficacy of this Protocol will be reported and resolved through the Council's Annual Governance process.