

From: Paul Carter, Leader of the Council and Cabinet Member for Health Reform
David Cockburn, Head of Paid Service and Corporate Director for Strategic & Corporate Services
Ben Watts, General Counsel

To: County Council, 7 December 2017

Subject: **KCC engagement with the Kent & Medway NHS Sustainability and Transformation Plan**

Classification: Unrestricted

Summary: County Council previously considered the Kent & Medway Sustainability and Transformation Plan (STP) at its meeting in March 2017. As the STP develops over the next twelve months, the arrangements for the financing, commissioning and delivery of health and social care services across the Kent and Medway area will increasingly come to the fore. KCC's engagement with the STP places it in a strong position to influence and shape these STP discussions. However, given the potential for the proposals to fundamentally change existing KCC social care budgets, policies and decision-making arrangements, it is important that County Council agrees the framework for further engagement in the STP discussions.

Recommendations:

That County Council:

- a) Note the successful engagement of the County Council with the STP to date;
- b) Note the latest developments regarding the STP, in particular the move towards a single Strategic Commissioner for health and two Accountable Care Partnerships;
- c) Agree the principles as the basis for KCC engagement in the STP discussions set out in Section 4;
- d) Note and agree the arrangements for Member oversight and decision-making for proposals which may emanate from STP engagement.

1. Introduction:

1.1 The Kent and Medway Sustainability and Transformation Plan (STP) was published in November 2016 and is one of forty-four STPs across England which are responding to the fundamental challenge of delivering a financially sustainable health and social care system as required in the NHS England Five Year Forward View. County Council considered the Kent and Medway STP at its meeting on 16 March 2017. Following publication of the Five Year Forward View: The Next Steps in late March 2017, Sustainability and Transformation Plans became Sustainability and Transformation Partnerships, as focus shifts from plan development to design of future service and commissioning arrangements.

1.2 Engagement with, and representation on, the Kent and Medway STP from KCC at both officer and member level has been significant. However, the STP is approaching a period where it will consider fundamental issues around the arrangements for the financing, commissioning and delivery of services across the Kent and Medway health and social care system. This step-change

may lead to proposals to change existing KCC social care budgets, policies and decision-making arrangements.

1.3 As such, the aim of this paper is not to consider the merits or otherwise of the STP itself, but instead to set out:

- KCC's engagement with STP to date;
- the latest developments on the STP, and how these will shape forthcoming discussions on the future design and delivery of health and social care services;
- fundamental principles and red lines to KCC's engagement during these discussions;
- how Members will be kept informed of the progress of these discussions and;
- arrangements for future decision-making that may emanate from the STP.

2. KCC engagement to date:

2.1 The scope of KCC's engagement with the STP is broad and impacts across a wide range of KCC services. The various boards and workstreams of the STP and the members and officers who represent KCC on them is set out in Appendix 1. Whilst some workstreams are more developed than others, the time and effort required to engage on each workstream is significant. However, senior level KCC engagement across the full range of workstreams is considered necessary given the interdependencies between them.

2.2 This scale of our engagement, together with the recognition that Kent and Medway is a single health and social care system places KCC in a strong position to influence and shape the future service and governance arrangements which will emerge from the STP – particularly in the delivery of local care. Most other county councils have multiple STPs within their boundaries and have found it difficult to access and engage fully with the STPs in their local areas. That has not been the case in Kent.

2.3 The progress made on the STP has required financial and non-financial support to be provided by all partners as programme costs are not funded by central government or NHS England. To date, the total amount committed by KCC is £452k. As the STP moves from being dependent on a temporary programme structure the expectation is that those temporary programme costs will end.

2.4 However, the non-financial costs in terms of officer and Member time, expense and opportunity loss are significant. It is important to note that the STP is not, and cannot be, the only priority for the County Council. Officer time and effort must be appropriately balanced between health reform and other core council responsibilities, priorities and pressures. As such, it may become necessary for the Head of Paid Service to proportionally flex KCC officer resource across STP workstreams should other pressures and priorities require him to do so.

3. Latest developments on the STP:

3.1 The summer and autumn have seen some important developments on the STP. Glenn Douglas, formally the Chief Executive of Maidstone and Tunbridge Wells NHS Trust has been confirmed as the STP Chief Executive. There is now general agreement for the need for a single Strategic Commissioner for health across Kent and Medway, and work is underway to develop this through the STP, including determining how a strategic commissioner for health will work alongside the existing Clinical Commissioning Groups (CCGs).

3.2 In parallel to the emerging arrangements for the Strategic Commissioner for health is an in-principle agreement to create two Accountable Care Partnerships (ACPs) that will sit beneath the Strategic Commissioner in Kent and Medway. It is currently proposed that there will be one ACP covering East Kent and one ACP covering West Kent, North Kent and Medway.

3.3 ACPs have their genesis in integrated care models in America and New Zealand. They involve bringing together providers or an alliance of providers that collaborate to meet the health needs of a clearly defined (either by need or geography) population. These providers then take responsibility for a contract awarded by a commissioner or commissioners to deliver a range of services. ACPs work via an outcome-based capitated contract to provide maximum flexibility about how resources are used to deliver those outcomes. As such, it is intended that ACPs focus on collaboration rather than competition.

3.4 There is no defined or set model for ACPs in the UK and many STP areas are exploring various options around the design, structure and accountability of ACPs. However, the fundamental rationale of ACPs is that by collectively sharing resources and governance across different types of health and social care providers, it is possible to shift resources and budgets towards new models of care focussed on community and primary care, and weaken traditional blockages such as organisational self-interest. Developing ACPs as separate, legally constituted vehicles to which commissioners provide significant multi-year budgets and delegate significant flexibility over the design and delivery of services in a health and social care system as complex as that in the UK will not be easy.

3.5 The exact relationship between the Strategic Commissioner for health and the ACPs in Kent is not yet known and will be the subject of further discussion in the STP, but will depend on relative split in functions and responsibilities between each. KCC is represented by Anu Singh, Corporate Director for Adult Social Care & Health on the East Kent ACP working group, and there will be similar senior representation on the working group for the West Kent, North Kent and Medway ACP when established.

3.6 For KCC as the countywide strategic Commissioner of social care the move to create a single Strategic Commissioner for health provides a clear opportunity for the integration of health and social care priorities between two partners that govern the majority of spend across the health and social care system. As such, our preference is that ACPs are primarily focussed on developing integrated delivery where it is sensible and expeditious to do so, whilst the Strategic Commissioner for health works closely with KCC and Medway Councils to align budgets, outcomes and strategic commissioning activity.

3.7 Perhaps the most significant risk in these new arrangements is that they are being developed in a legal framework established by the Health and Social Care Act 2012, which created CCGs as the sole commissioners of health services for their local population and formalised the commissioner/provider split in the NHS which stipulates a significant degree of competition in the system. It was widely expected in the health service that primary legislation would have been brought forward by the Government to provide stronger legislative cover for the integration of health and social care at some point this year. However, the results of the General Election in June removed any prospect of complex (non-Brexit) legislation being possible. As such, the new arrangements are being agreed and delivered within the existing legal framework and through a consensus approach across all partners. This approach has not yet been tested in practice and could yet be subject to judicial review.

4. Principles for KCC engagement in STP discussions:

4.1 The County Council has been a strong proponent of the health reform agenda and is committed to health and social care integration. Indeed, the broad principles set out in *Delivering Better Healthcare*, a policy discussion paper considered by County Council in 2013 is still the fundamental strategic position of the County Council. These were:

- Healthcare that is predominately based in the community, around GP surgeries and local clinics that offer an extended range of services and use of new technologies and support to maintain people in their homes;

- Use of innovative models to provide coordinated, enabling support for those most at risk of avoidable hospitalisation;
- GPs as the coordinators of their patients' care, with integrated support from social care and other professionals;
- A health and care system in the community that is available 24/7 with professionals like District Nurses, Health Visitors, physiotherapists, occupational therapists and others, providing personalised, coordinated support for patients - team around the patient;
- A culture of quality in all areas of the health and care system, with respect, dignity and compassion at the heart of everything we do;
- Real accountability to patients and their families;
- A range of providers of health and care services, encouraging innovation and driving high quality;
- Public health services that support people to take responsibility for their health and wellbeing.

4.2 The challenge for the STP is not what integration may achieve in terms of outcomes or broad structures but the detailed and practical implementation of a local workable model at scale and pace in a county the size of Kent. This goes beyond the strategic governance and decision-making arrangements that are the immediate focus of the STP, to the design of front-line services across health and social care that must be remodelled to shift monies and provision downstream into a genuinely preventative and community operating model. Further thinking on the detail of this will be brought back to Members in due course.

4.3 However, given the financial, regulatory and service complexity across health and social care, the County Council must also protect its position so as not to increase its risk in an uncontrolled way. As such, the following are the red lines for KCC's engagement in the next steps discussions across all STP boards and workstreams:

- Engagement with the STP in and of itself does not confer or imply KCC support for proposals which may emerge from STP discussions;
- An agreement made at any STP board or workstream is 'in principle' only irrespective of who is the lead for KCC, until such agreement is confirmed through the necessary key or significant decision-making process of the County Council;
- That proposals emerging from the STP which directly impact KCC services or budgets are underpinned by sound business cases reflecting the principles set out within HM Treasury Green Book;
- That the financial case for proposals does not risk the County Council's ability to set a legal and balanced budget, as may be determined by the Section 151 Officer;
- That the proposals do not weaken or limit the council's ability to discharge its wider statutory duties, including but not exclusively around the Care Act and its statutory safeguarding responsibilities. This includes the ability of KCC statutory officers and Members to effectively discharge their statutory duties;
- That KCC social care monies should only be spent on meeting social care needs and should only be spent within the KCC administrative area. Clear line of sight of how and where KCC monies are spent must be maintained in any joint arrangements;
- That appropriate exit arrangements from any shared or joint arrangements are in place before the Council enters into, or operates within, joint arrangements.

5. Member oversight and framework for decision-making:

5.1 Given the complexity of the STP the Health Reform and Public Health Cabinet Committee will play an important role in overseeing KCC engagement with the STP. It has already received updates, and the forward plan is being designed so the committee can deep dive into specific STP workstreams at future meetings. Moreover, as a general matter of principle, should STP proposals impact on KCC services, then they should be considered by both the Health Reform and Public Health Cabinet Committee and the Cabinet Committee for the relevant service.

5.2 KCC is also exploring the option of creating a joint Health and Wellbeing Board with Medway Council. The fundamental nature of the decisions that might arise for both authorities from the STP in regard to the design and delivery of health and social care services means there is a need for a joined-up forum across both councils to provide a strong democratic voice back into STP discussions. It is envisaged that the joint Board would focus on the STP local care and prevention work streams where the local authorities are mission critical given their responsibilities as the relevant social care and public health authorities. It would also take an active role in shaping and developing the proposals for a system wide Strategic Commissioner and the relative roles, responsibilities and accountabilities of the emerging Accountable Care Partnerships.

5.3 For proposals emanating from the STP to be formally agreed, each partner must take decisions through their own governance arrangements. For KCC this means through the key and significant decision-making arrangements set out in The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, and the arrangements set out in the KCC Constitution.

5.4 Whilst any formal decisions emanating from STP proposals cannot yet be known, it is broadly accepted that there are four types of decision that may emanate from STP proposals. These are set out below, along with the appropriate decision-making arrangement:

- **Arrangements regarding KCC engagement in the STP:** Should there be any further decisions necessary to support KCC's engagement with the STP, such as further financial support, these will be made in the normal way by Cabinet or relevant Cabinet Member, with scrutiny, where necessary, by the Health Reform and Public Health Cabinet Committee.
- **NHS service variation and reconfiguration proposals:** Where proposals entail NHS-specific variation and reconfiguration of services that do not directly involve KCC services, these proposals may be scrutinised by the Health Overview and Scrutiny Committee (HOSC) if it believes them to be significant. HOSC may also make a referral to the Secretary of State if it disagrees with the proposals. So as not to fetter the statutory responsibility of HOSC all NHS-specific variation and reconfiguration proposals emanating from the STP will only be considered by HOSC.
- **Service redesign or recommissioning proposals by KCC to support STP objectives:** Proposals from some workstreams within the STP such as the prevention and local care workstreams will likely impact on KCC services such as older people's domiciliary care and public health. Where it is proposed to make changes to KCC services to support STP objectives, pre-scrutiny should be through the Health Reform and Public Health Cabinet Committee and the appropriate service Cabinet Committee in line with current procedure.
- **Proposals to transfer KCC decision-making, commissioning or budgets to new/shared arrangements with NHS:** As noted in section four, it is possible that both the emerging Strategic Commissioner and ACP arrangements in Kent and Medway lead to proposals for budget, commissioning and service decision-making to be transferred into new permanent integrated arrangements. Such proposals would have a significant impact on our staff, service users, service providers and elected Members. As these decisions may fundamentally change how KCC discharges its statutory duties, they are a reserved decision for Full Council on the recommendation of the Cabinet.

5.5 It should be noted that the Scrutiny Committee will continue to have discretion to consider any KCC decisions/service issues as it sees fit. It is also worth highlighting that even where proposals emanate from agreement within the STP, this does not remove or mitigate the need for KCC to fulfil its wider statutory duties when making decisions. The need for KCC to ensure appropriate public and service user consultation and engagement will still apply, whilst all Members

must be satisfied that the Public-Sector Equality Duty has been appropriately discharged (as evidenced through an Equalities Impact Assessment) ahead of taking any decision.

6. Recommendations:

6.1 County Council:

- a) Note the successful engagement of the County Council with the STP to date;
- b) Note the latest developments regarding the STP, in particular the move towards a single Strategic Commissioner for health and two Accountable Care Partnerships;
- c) Agree the principles as the basis for KCC engagement in the STP discussions set out in Section 4;
- d) Note and agree the arrangements for Member oversight and decision-making for proposals which may emanate from STP engagement.

Background documents:

- Delivering Better Healthcare, Policy Discussion Paper to Kent County Council, 28 March 2013
- NHS England Five Year Forward View, October 2014
- The Sustainability and Transformation Plan (STP) for Kent and Medway, Report to Kent County Council, 16 March 2017
- NHS England Five Year Forward View: The Next Steps, March 2017

Appendices: Appendix 1 - KCC representation on STP Boards and Workstreams

Report Author:

David Whittle
Director of Strategy, Policy, Relationships and Corporate Assurance
E-mail: david.whittle@kent.gov.uk
Tel: 03000 416833

Appendix 1: KCC representation on STP Boards and Workstreams

Board / Workstream	KCC Engagement
Programme Board	<ul style="list-style-type: none"> - Paul Carter, Leader of the Council - Peter Oakford, Deputy Leader and Cabinet Member for Strategic Commissioning & Public Health - Anu Singh, Corporate Director for Adult Social Care & Health - Andrew Scott-Clark, Director of Public Health
Clinical Board	<ul style="list-style-type: none"> - Anu Singh, Corporate Director for Adult Social Care & Health - Anne Tidmarsh, Director of Older People & Physical Disability - Andrew Scott-Clark, Director of Public Health
Finance Group	<ul style="list-style-type: none"> - Jane Blenkinsop, Project Manager - Rebecca Spore, Director of Infrastructure
Prevention	<ul style="list-style-type: none"> - Andrew Scott-Clark, Director of Public Health - Faiza Khan, Public Health Consultant - Abraham George, Public Health Consultant
Local Care	<ul style="list-style-type: none"> - Michael Thomas-Sam, Head of Strategy and Business Support
Mental Health	<ul style="list-style-type: none"> - Penny Southern, Director Learning Disability & Mental Health
Workforce	<ul style="list-style-type: none"> - Ann Tidmarsh, Director of Older People & Physical Disability - Jess Mookherjee, Public Health Consultant - Karen Ray, EODD Business Partner, Adult Social Care & Health
Digital	<ul style="list-style-type: none"> - Alan Day, Technology and Strategy Commissioning - Linda Harris, Infrastructure Business Partner
Estates	<ul style="list-style-type: none"> - Rebecca Spore, Director of Infrastructure - Victoria Seal, Head of Property Strategy & Commissioning
System Transformation (previously titled Commissioning)	<ul style="list-style-type: none"> - Vincent Godfrey, Strategic Commissioner