

From: Peter Oakford, Deputy Leader, Cabinet Member for Strategic Commissioning & Public Health and Chairman of the Kent Health and Wellbeing Board

David Whittle, Director Strategy, Policy, Relationships and Corporate Assurance

To: Kent Health and Wellbeing Board – 21 March 2018

Subject: Establishment of a new Kent and Medway JOINT Health and Wellbeing Board

Classification: Unrestricted

Summary:

This report seeks approval for the establishment of a Kent and Medway Joint Health and Wellbeing Board from 1 April 2018. This will be for an initial period of two years to secure a collaborative approach between the Kent and Medway Health and Wellbeing Boards as they contribute to the development of the Sustainability and Transformation Partnership Plans. It is proposed to constitute the Joint Health and Wellbeing Board as an Advisory Sub Committee of both Boards as provided for in the Health and Social Care Act 2012.

1. Introduction

- 1.1 Following approval from the Kent Health and Wellbeing Board on 22 November 2017 further work has taken place with Medway Council to develop the proposal to create a Joint Health and Wellbeing Board (HWB).
- 1.2 Section 198 of the Health and Social Care Act 2012 allows two or more Health and Wellbeing Boards to establish a Joint Sub Committee of the Boards to advise them on any matter related to the exercise of their functions.
- 1.3 The proposal to establish a Kent and Medway Joint HWB constituted as an Advisory Sub Committee together with the determination of its size, membership, terms of reference and rules of procedure must be formally agreed by each Board.
- 1.4 A similar paper was presented to Medway's Health and Wellbeing Board on 20 February 2018 where the proposal was agreed.

2. Establishment of a new Kent and Medway Joint Health and Wellbeing Board (KAMJHWB)

- 2.1 Given the complexity of the Sustainability and Transformation Partnership (STP), the Leader and Cabinet in Kent and the Leader and Cabinet in Medway will play an important role in overseeing local authority engagement

with the STP and will be the decision-makers in the event of any proposals for reconfiguration of the way social care and public health services are commissioned and delivered.

- 2.2 Separately, but in parallel, both the KCC and Medway HWBs will continue to be under a duty to discharge their statutory functions during this period of change. It is considered there would be significant merit in both Councils working together through the vehicle of their HWBs to provide a strong democratic voice in the STP discussions as the future design and delivery of health and social care services moves forward. In particular it is considered there should be a joint focus on the STP local care and prevention work streams given the responsibilities of both local authorities in social care and public health. The STP would benefit from Kent County Council and Medway Council working jointly to actively shape and develop the proposal for a system wide Strategic Commissioner and the relative roles, responsibilities and accountabilities for the emerging Integrated Care Systems.
- 2.3 The Health and Social Care Act provides for the HWBs of two or more local authorities to work jointly on several levels; either by exercising their functions jointly (for example by having one Kent and Medway HWB and one JSNA/HWB Strategy for the whole area) or by arranging for a Joint Sub Committee to exercise any of their functions or by setting up a Joint Sub Committee to advise them on any matter related to the exercise of their functions.
- 2.4 Following discussion between the Leaders and HWB Chairmen of both Kent County Council and Medway Council it is proposed that Kent and Medway should each continue to discharge their HWB functions separately and that a Joint Advisory Sub Committee of both HWBs would be the most appropriate vehicle for a collaborative approach on the issues emerging from the STP plans for both local authorities. This would be called the Kent and Medway Joint Health and Wellbeing Board and would operate principally to encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner and for the purpose of advising on the development of the STP plans for Kent and Medway.
- 2.5 Draft governance arrangements for the Joint Board are set out at Appendix 1 to this report including proposed terms of reference, a proposal for the membership (voting and non-voting) and suggested rules of procedure. Each Council will support the Board for one year following which there would be a review of the arrangements to determine if they should continue.
- 2.6 It is proposed, subject to further discussion, that Health will be represented by the Managing Director of East Kent, the Managing Director of Medway, North and West Kent and the Chief Executive of the STP. This will support the Joint Board with its focus on STP related matters.

3. Financial, legal and risk management implications

- 3.1 There will be a cost associated with establishing a Joint Advisory Sub Committee of the Kent and Medway HWBs in terms of support for the Board and meeting arrangements. This cost will be shared, with each local authority supporting the Board for one year in turn within existing resources. The Board itself will not have a budget. Any executive decisions or the determination of any matter relating to the discharge of the statutory functions of the Kent and Medway HWBs will remain a matter for each Council.
- 3.2 The scope for two or more Health and Wellbeing Boards to establish arrangements to work jointly is provided in section 198 of the Health and Social Care Act 2012. Section 198 allows for the joint exercise of functions by a Joint HWB or by a Joint Sub Committee or for the establishment of a Joint Sub Committee to advise the participating HWB's on any matter related to the exercise of their functions
- 3.3 There are no risks arising from the proposal to set up joint arrangements between the Kent and Medway Health and Wellbeing Boards.

4. Recommendations

- 4.1 The Health and Wellbeing Board is asked to agree:
- i. The establishment of a new Kent and Medway Joint Health and Wellbeing Board constituted as an Advisory Sub Committee, with Terms of Reference and procedure rules as set out in Appendix 1 to this report;
 - ii. That the membership of the Sub Committee should be as set out in paragraph 5 of Appendix 1 to this report.
 - iii. That the role and continuation of the KAMJHWB should be reviewed after two years

REPORT AUTHOR:

Karen Cook
Policy and Relationships Adviser (Health)
Email: Karen.cook@kent.gov.uk
Tel: 03000 415281

Appendix 1:

Draft Governance Arrangements for the Kent and Medway Joint Health and Wellbeing Board

1. The Medway Health and Wellbeing Board and the Kent Health and Wellbeing Board are each separately responsible for discharging the following statutory powers and duties for their own areas:
 - (a) Preparation and publication of a Joint Strategic Needs Assessment (JSNA) – Section 196 of the Health and Social Care Act 2012.
 - (b) Preparation and publication of a Joint Health and Wellbeing Strategy to meet the needs identified in the JSNA – Section 196 of the Health and Social Care Act 2012
 - (c) Assessment of need, preparation and publication of a Pharmaceutical Needs Assessment – Section 128A of the National Health Service Act 2006
 - (d) For the purpose of advancing the health and wellbeing of the people in either Kent or Medway, to encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner – Section 195 of the Health and Social Care Act 2012
 - (e) Encouragement to persons who arrange for the provision of any health-related services in Kent and Medway to work closely with the Board – Section 195 of the Health and Social Care Act 2012
 - (f) Encouragement to persons who arrange for the provision of any health or social care services in Kent and Medway and to persons who arrange for the provision of any health-related services in the area to work closely together – Section 195 of the Health and Social Care Act 2012
 - (g) Provision of such advice, assistance or other support as thought appropriate by the respective HWBs for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services – Section 195 of the Health and Social Care Act 2012
 - (h) Involvement in preparation or revision of CCG Commissioning Plans – Section 26 of the Health and Social Care Act 2012
 - (i) Review of draft CCG Commissioning Plans before the beginning of each financial year (and any in - year revisions to plans) and provision of an opinion to the CCG as to whether or not the draft, or any revisions, take proper account of the Joint HWB Strategy (with an option to provide an opinion to NHS England) -Section 26 of the Health and Social Care Act 2012

- (j) Provision of advice to the local authority that established the HWB of its views on whether the local authority is discharging its duty to have regard to the JSNA and Joint Health and Wellbeing Strategy – Section 196 of the Health and Social Care Act 2012
- (k) Provision of a view to NHS England when the annual performance assessment of CCGs is conducted, on the contribution of the CCG to the delivery of the Joint HWB Strategy – Section 26 of the Health and Social Care Act 2012

2. Establishment of an advisory joint sub-committee to be known as the Kent and Medway Joint Health and Wellbeing Board

- (a) In exercise of their powers under Section 198 of the Health and Social Care Act 2012 which permits two or more Health and Wellbeing Boards to make arrangements for any of their functions to be exercised jointly, Kent County Council and Medway Council have agreed to establish an advisory joint sub-committee to be called the Kent and Medway Joint Health and Wellbeing Board (KAMJHWB) for a time limited period of two years to start from 1st April 2018.

3. Operating principles

- (a) The KAMJHWB is an advisory sub-committee which operates to encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner and for the purpose of advising on the development of the Sustainability and Transformation Partnership (STP) Plans for Kent and Medway.
- (b) It will seek to:
 - i. Ensure collective leadership to improve health and well-being outcomes across both local authority areas, to enable shared discussion and consensus about the STP across the Kent and Medway footprint in an open and transparent way;
 - ii. Help to ensure the STP has democratic legitimacy and accountability, to seek assurance that health care services paid for by public monies are provided in a cost-effective manner.
 - iii. Consider the work of the STP and encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner
 - iv. Take account of and advise on the wider statutory duties of Health and Social Care Partners

4. Key Functions

- (a) To consider and influence the work of the STP focussing on prevention, Local Care and wellbeing across Kent and Medway.
- (b) To consider and shape the development of Local Care within the STP which will impact on adult social care delivery in both authorities, advising the Kent and Medway Health and Wellbeing Boards accordingly.
- (c) To give advice to the STP in developing clear plans and business cases to assist commissioners in making best use of their combined resources to improve local health and well-being outcomes, particularly relating to the Local Care and Prevention work streams, making recommendations to the Kent and Medway Health and Wellbeing Boards on support that could be provided.
- (d) To keep NHS commissioning plans under review, insofar as they relate to STP Plans to ensure they are taking into account the Kent and Medway JSNAs and local HWB Strategies, referring back to the STP Programme Board and respective Kent and Medway Health and Wellbeing Boards where they do not.
- (e) To champion integration in local care delivery, including working with the STP to establish a Kent and Medway Local Care Board
- (f) To support the development of the Clinical Strategy
- (g) To ensure alignment of the Kent and Medway JSNAs with population health needs to inform the STP Case for Change and the associated Clinical Strategy
- (h) To consider and advise on the development of the STP Preventative work-stream given it is heavily focussed on Public Health functions within both upper-tier authorities
- (i) To consider and advise on the development of options for the local authorities' role in a Strategic Commissioner arrangement with Health – the engagement in which remains a matter for each of the local authorities.
- (j) To consider options for the Local Authority role in the development of Integrated Care Systems (previously known as Accountable Care Partnerships), the engagement in which remains a matter for each of the local authorities.

5. Membership

- (a) The Chairman of the KAMJHWB will be appointed at the first meeting of the Board and thereafter at the first meeting of the Board after the annual meetings of Kent County Council and Medway Council. It is expected that the position of Chairman will be rotated between the chairmen of the constituent authorities' Health and Wellbeing Boards on an annual basis.

(b) The Vice-Chairman of the Joint Board will also be appointed at the first meeting of the Board and thereafter at the first meeting of the Joint Board after each Kent and Medway Annual Council meetings. It is expected that the position of vice-chairman will also be rotated on an annual basis and will be the chairman of the authority's Health and Wellbeing Board who is not the chairman of the KAMJHWB.

(c) Voting members of the KAMJHWB are as follows:

- The Leader of each Council and up to three other members of each council nominated by the respective leaders (or their substitutes)
- The Director of Adult Social Services for Kent and the Assistant Director Adult Care Services for Medway
- The Director of Children's Services for Kent and the Director of Children and Adults for Medway
- The Director of Public Health for each local authority
- Representatives of the Local Healthwatch organisations for Kent and Medway who must not be a Member of a Health Overview and Scrutiny Committee for either authority and who may each have a named substitute
- A representative of each Clinical Commissioning Group (noting that section 197 (7) of the Health and Social Care Act 2012 provides for one person to represent more than one CCG on a HWB subject to the agreement of the Board). Each CCG representative may have a named substitute.

(d) Non-Voting Members of the KAMJHWB are as follows:

- The Police and Crime Commissioner
- A representative of the Kent and Medway Local Medical Committee (who may also have a named substitute)

(e) The KAMJHWB may appoint other persons to be non-voting members as it considers appropriate. If at any time after the establishment of the Joint Board either of the authorities' Health and Wellbeing Boards wish to appoint additional non-voting members of the Board this may only be done after consultation with the KAMJHWB. In addition, there should be observer representatives from two District Councils in Kent (aligned with the footprint of the Integrated Care Systems)

(f) With the agreement of the Joint Board, voting or non-voting members from new structures that are emerging in Health may also be included.

6. Procedure Rules

(a) **Conduct.** Members of the KAMJHWB must comply with the relevant Council's Code of Conduct.

(b) **Registration and Declaration of Interests.** Section 31(4) of the Localism Act 2011 (disclosable pecuniary interests in matters considered at meetings or by

a single member) applies to the KAMJHWP. A register of interests is held by Kent County Council and Medway Council. Members of the KAMJHWP must register interests as required by the relevant Council's code of conduct. A Member of the Board or any substitute may not participate in a discussion of or vote on any matter in which he or she has a DPI or other significant interest (both those already registered and those disclosed at the meeting) and must withdraw from the room during such discussion.

(c) **Frequency of Meetings.** The KAMJHWP will usually meet quarterly. The date, time and venue of meetings are fixed in advance by the JKAMHWP. At the end of the time limited period the Board may agree to continue its arrangements with approval through the relevant Council governance for each authority.

(d) **Meeting Administration.** Administration for the KAMJHWP will be rotated annually between Kent County Council and Medway Council.

- The Joint Board will give at least five clear working days' notice in writing to each member of every ordinary meeting of the KAMJHWP, to include any agenda of the business to be transacted at the meeting.
- Papers for each KAMJHWP meeting are published at least five clear working days in advance.
- Late papers may be added to the agenda at less than five days' notice only where the Chairman is satisfied that the business is urgent by way of special circumstances which must be specified in the minutes.
- Meetings will take place in public with provision for exclusion of the press and public where confidential or exempt information is likely to be disclosed as defined in the Local Government Act 1972.

(e) **Special Meetings.** The Chairman or Vice-Chairman may convene special meetings of the KAMJHWP in addition to scheduled meetings as considered necessary

(f) **Minutes.** Minutes of all of KAMJHWP meetings are prepared recording:

- the names of members of the KAMJHWP (and any substitutes) who are present at a meeting and any apologies for absence
- details of all proceedings and resolutions of the meeting
- Minutes are normally published and circulated before the next meeting of the KAMJHWP, when they are submitted for approval by the KAMJHWP and are signed by the Chairman.

(g) **Agenda.** The agenda for each meeting normally includes:

- Apologies for absence
- Declarations of interest
- Minutes of the previous meeting for approval and signing
- Reports to the KAMJHWP

- Any item which a member of KAMJHWB wishes included on the agenda provided it is relevant to the Terms of Reference of the Board must be notified to the Chairman and relevant Democratic Services Officer at least one calendar month before the meeting however any decision to include an item on any agenda rests with the Chairman and Vice-Chairman following advice from the relevant officers.
- (h) **Absence of Members and of the Chairman.** If a member is unable to attend a meeting, they may provide an appropriate substitute to attend in his/her place (noting that CCG, LMC and Healthwatch representatives must have named substitutes). The Democratic Services Officer for the meeting should be notified of any absence and/or substitution prior to the meeting. Any substitute member must register his/her interests, in accordance with either the Medway or Kent Councillor Code of Conduct and these must be published before participation as a formal member of the Joint Board is permitted.
- (i) The Chairman presides at KAMJHWB meetings if he/she is present. In their absence the Vice-Chairman presides. If both are absent, the KAMJHWB appoints from amongst its members an Acting Chairman for the meeting in question.
- (j) All matters coming before the KAMJHWB shall be decided by a majority of the members of the Board present and voting thereon at the meeting. In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.
- (k) **Quorum.** A third of the total number of voting members of the Board, and at least one representative from each of the two councils, form a quorum for the KAMJHWB meetings. No business shall be transacted at any meeting of the KAMJHWB which is inquorate. If it arises during the course of a meeting that a quorum is no longer present, the Chairman must either suspend business until a quorum is re-established or declares the meeting at an end.
- (l) **Adjournments.** By the decision of the Chairman, or by the decision of a majority of those members present, meetings of the KAMJHWB may be adjourned at any time to be reconvened at any other day, hour and place, as the KAMJHWB decides.
- (m) **Order at Meetings.** At all meetings of the KAMJHWB it is the duty of the Chairman to preserve order and to ensure that all members are treated fairly. The Chairman decides all questions of order that may arise.
- (n) **Overview and scrutiny.** Overview and scrutiny (within the meaning of the Local Government Act 2000 and The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013) will be the responsibility of each constituent Authority and the appropriate scrutiny arrangements of each Authority will apply. No member of a Health Overview and Scrutiny Committee from either Kent County Council or Medway Council may also be a member (or substitute member) of the KAMJHWB.

