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To: Ashford Health and Wellbeing Board

Date: 23 October 2013

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

Classification: Unrestricted

For Discussion. The Ashford Health and Wellbeing Board is asked to discuss the amendments to the terms of reference and procedure rules set out in Appendix 1 of this report.

These amendments are yet to be formally agreed by all parties (including the CCGs) and are subject to approval by the Kent Health and Wellbeing Board.

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 relatively 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 voting members of the 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) Voting arrangements at local Health and Wellbeing Boards in the event of being unable to agree a consensus.

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 be non-voting members of local HWBs.
- 2.3 It is therefore proposed that the terms of reference and procedure rules for local HWBs be amended to make it clear that district council officers are not voting 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 HWB is planned for later in the autumn.
- 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 currently required to elect their representatives on the HWB from among those who already attend the 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. Voting arrangements

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. Whilst it unlikely that voting will be necessary under present arrangements the process by which decisions can be made where consensus is not achieved needs to be in place in case circumstances change.

- 8.1 During the evolution of the local Boards across the County it has become evident that there are substantial differences between the Kent Board and the local Boards. For example the officer representation on the Kent Board is designated by regulation and applies to specific officer posts. These posts do not exist at district level and there are no direct equivalents. The Kent Board 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 Board the principle of no one set of organisations being able to outvote any of the others (the House of Lords principle) can be relatively simply applied but this is not the case for all of the local boards given their various configurations, unless district council representation is considered "en bloc" in CCG areas with multiple districts.
- 8.2 There is no single solution that can easily reconcile the variation in membership of boards across the county. Whilst recognising that on some boards it will be less than ideal the simplest solution is the one proposed in the attached draft governance arrangements which gives each organisation – CCG, KCC, District Council and Healthwatch- one vote.

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.
- 9.2 These amendments are yet to be formally agreed by all parties (including the CCG's) and are subject to approval by the Kent Health and Wellbeing Board.

Recommendations

The Ashford Health and Wellbeing Board is asked to consider the amendments to the terms of reference and procedure rules set out in Appendix 1 of this report

Background Documents - none

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Local Health and Wellbeing Boards

Governance Arrangements

The Kent Health and Wellbeing Board (HWB) leads and advises 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) in order to:

- secure better health and wellbeing outcomes in Kent
- reduce health inequalities and
- ensure better quality of care for all patients and care users.

The HWB has a primary responsibility to make sure that health care services paid for by public monies are provided in a cost-effective manner. It is supported in this work by a series of sub-committees referred to as local Health and Wellbeing Boards (local HWBs).

As sub-committees of a Kent County Council committee, the governance arrangements (e.g. terms of reference and declarations of disclosable pecuniary interests) are the same as those applied to any other County Council committee or sub-committee.

At this time no decision has been taken to delegate any decision making responsibilities to the local HWBs. Instead they will be asked to make recommendations to both the HWB and their partner bodies. This position may change in the future.

Role of the local Health and Wellbeing Boards

The local HWBs will lead and advise on:

- the development of a CCG level Integrated Commissioning Strategy and Plan;
- ensure effective local engagement;
- monitor local outcomes.

They will focus on improving the health and wellbeing of the people living in their CCG area through joined up commissioning across the NHS, social care, district councils, public health and other services (that the HWB agrees are directly related to health and wellbeing), in order to secure better health and wellbeing outcomes in their area and better quality of care for all patients and care users.

Terms of Reference:

The local HWBs will:

1. Be appointed as sub-committees of the Kent Health and Wellbeing Board (a committee of Kent County Council);
2. Develop a CCG level Integrated Commissioning Strategy and Plan, based on the Joint Strategic Needs Assessment, Joint Health and Wellbeing Strategy and partners Commissioning Plans. This will be approved by the Kent Health and Wellbeing Board;
3. Consider the totality of the resources in the CCG area for health and wellbeing and consider how and where investment in health improvement and prevention services could (overall) improve the health and wellbeing of local residents;
4. Work with existing partnership arrangements, e.g. children's commissioning, safeguarding and community safety, to ensure that the most appropriate mechanism is used to deliver service improvement in health, care and health inequalities;
5. Endorse and promote joint arrangements where agreed and appropriate; including the use of pooled budgets for joint commissioning (s.75), the development of appropriate partnership agreements for service integration, and the associated financial protocols and monitoring arrangements, making full use of the powers identified in all relevant NHS and local government legislation;
6. Undertake monitoring of local outcomes;
7. Ensure effective local engagement on health and care issues, using existing engagement mechanisms where necessary and linking in to any county level engagement work where established;
8. Develop a local Communication and Engagement Strategy to ensure clear lines of communication/consultation with residents, County Council, Neighbourhood Forums and Patient/Public Networks;
9. Provide advice (as and when requested) to the Kent Health and Wellbeing Board on local service reconfigurations that may be subject to referral to the Kent County Council Health Overview and Scrutiny Committee (HOSC) or the Secretary of State on resolution by KCC HOSC;
10. Be the focal point for joint working in the CCG area to ensure facilities and accessibility, in order to enhance service integration;
11. Report to the Kent Health and Wellbeing Board on an annual basis on its activity and progress against the milestones set out in the Integrated Commissioning Strategy and any established work plan;
12. Responsible for overseeing local project resource to facilitate local pathway redesign, as appropriate;

13. Provide recommendations on how and where investment, resources and improvements can be made within the CCG area;
14. Identify how to make the best use of the flexibilities at the Board's disposal, such as devolved/pooled budgets.

Membership:

The local HWBs have similar membership to that of the Kent Health and Wellbeing Board. Typically membership is as follows:

- District/Borough/City Council Leader/Senior Member
- District/Borough/City Council senior officers (non-voting)
- Kent County Council Cabinet Member or Deputy Cabinet Member
- Kent County Council Families and Social Care Corporate Director (or his nominee)
- Kent County Council Public Health Consultant
- CCG Senior Officer
- CCG GPs
- Healthwatch representative
- Chair of the Children's Operational Group (when appointed)
- Other representatives as identified and agreed by the local HWB, e.g. voluntary sector

Changes to membership of the local HWBs will not need to be notified to the Kent HWB.

In addition to the core membership, other people can be invited by the Chairman to attend the meeting to present as and when required.

All meetings will be held in public.

The Chairman will be elected by the local HWB.

Local Health and Wellbeing Boards

Procedure Rules

1. Conduct.

Members of local HWBs are required to subscribe to and comply with the Kent County Council Code of Conduct for Members. Non-elected members of local HWBs (e.g. GPs) will be co-opted members and, as such, are also covered by the Kent Code of Conduct for Members for any business they conduct as a member of the local HWB. Council officer representatives will be non-voting members and as such not subject to the Kent Code of Conduct for Members.

2. Declaration of Disclosable Pecuniary 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 HWB and any sub-committee of it. A register of disclosable pecuniary interests is held by the Clerk to the HWB, but HWB members do not have to leave the meeting once a disclosable pecuniary interest is declared, however they cannot have a vote on that matter.

3. Frequency of Meetings.

Local HWBs meet at least quarterly. The date, time and venue of meetings is fixed in advance by the local HWB.

4. Meeting Administration.

- Local HWB meetings are advertised and held in public and administered by the nominated District/Borough/City Council.
- Local HWBs may consider matters submitted to them by local partners.
- The administering Council publishes and gives at least five clear working days' notice in writing to each member of every ordinary meeting of the local HWB, to include any agenda of the business to be transacted at the meeting.
- Papers for each local HWB meeting are sent out at least five clear working days in advance.
- Late papers may be sent out or tabled only in exceptional circumstances and with the agreement of the chairman.
- Local HWBs hold meetings in private session only in accordance with the Access to Information Procedure Rules and the Local Government Act 1972 (as amended)
- Local HWB meetings will be webcast where the facilities are in place.
- The Chairman's decision on all procedural matters is final.

5. Meeting Administration of Sub Committees.

Local HWBs are administered by a District/Borough/City Council in each area. They will be subject to the provisions stated in these Procedure Rules.

6. Special Meetings.

The Chairman may convene special meetings of a local HWB at short notice to consider matters of urgency. The notice convening such meetings shall

state the particular business to be transacted and no other business will be transacted at such meeting.

The Chairman is required to convene a special meeting of a local HWB if they are in receipt of a written requisition to do so signed by no less than three members of the local HWB. Such requisition shall specify the business to be transacted and no other business shall be transacted at such a meeting. The meeting must be held within five clear working days of the Chairman's receipt of the requisition.

7. Minutes.

Minutes of all local HWB meetings are prepared recording:

- the names of all members present at a meeting and of those in attendance;
- apologies;
- declarations of Disclosable Pecuniary Interests and Other Significant Interests
- details of all proceedings, decisions and resolutions of the meeting.

Minutes are circulated to each member before the next meeting, when they are submitted for approval by the local HWB and are signed by the Chairman.

8. Agenda.

The agenda for each meeting normally includes:

- Minutes of the previous meeting for approval and signing;
- Declarations of Disclosable Pecuniary Interests and Other Significant Interests
- Reports seeking a decision from the local HWB;
- Any item which a member of the local HWB wishes included on the agenda, provided it is relevant to the terms of reference of the local HWB and notice has been given to the Clerk at least nine working days before the meeting.

The Chairman may decide that there are special circumstances that justify an item of business, not included in the agenda, being considered as a matter of urgency. He must state these reasons at the meeting and the Clerk shall record them in the minutes.

9. Chairman and Vice Chairman's Term of Office.

The Chairman will be elected by the local HWB. The Chairman and Vice Chairman's term of office terminates on 1 April each year, when they are either reappointed or replaced by another member, according to the decision of the local HWB, at the first meeting of the local HWB succeeding that date.

10 Membership

Members will usually comprise:

- District/Borough/City Council Leader/Senior Member
- District/Borough/City Council senior officers (non-voting)
- Kent County Council Cabinet Member or Deputy Cabinet Member
- Kent County Council Families and Social Care Corporate Director (or his nominee)
- Kent County Council Public Health Consultant
- CCG Senior Officer
- CCG GPs
- Healthwatch representative
- Chair of the Children's Operational Group (when appointed)
- Other representatives as identified and agreed by the local HWB, e.g. voluntary sector

Council officers will be non-voting members of the boards.

The process for nomination of members and named substitutes is a matter for each nominating organisation.

11. Absence of Members and of the Chairman.

If a member is unable to attend a meeting, a named substitute may attend in their absence, subject to them being of sufficient seniority to agree and discharge decisions of the Board within and for their own organisation.

The Clerk of the meeting should be notified of any absence and/or substitution at least five working days prior to the meeting.

The Chairman presides at local HWB meetings if they are present. In their absence the Vice-Chairman presides. If both are absent, the local HWB appoints from amongst its members an Acting Chairman for the meeting in question.

12. Voting.

Local HWBs should operate on a consensus basis. Where consensus cannot be achieved, the subject matter is put to a vote. Local HWBs decide all such matters by a simple majority of the members present based on the principle of one organisation one vote. In the case of an equality of votes, the Chairman shall have a second or casting vote. All votes shall be taken by a show of hands unless decided otherwise by the Chairman.

13. Quorum.

A third of voting members form a quorum for local HWB meetings. No business requiring a decision shall be transacted at any meeting of the local HWB which is inquorate. If it arises during the course of a meeting that a quorum is no longer present, the Chairman either suspends business until a quorum is re-established or declares the meeting at an end.

14. Adjournments.

By the decision of the Chairman, or by the decision of a majority of those members present, meetings of local HWBs may be adjourned at any time

to be reconvened at any other day, hour and place, as the local HWB decides.

15. Order at Meetings.

At all meetings of local HWBs, it is the duty of the Chairman to preserve order and to ensure that all members are treated fairly. They decide all questions of order that may arise.

16. Suspension/disqualification of Members.

At the discretion of the Chairman any body with a representative on a local HWB will be asked to reconsider the position of their nominee if they fail to attend two or more consecutive meetings without good reason or without the prior consent of the Chairman.