

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

Date of Meeting: 28 November 2011

Report of: Lorraine Butcher & Heather Grimbaldeston

Subject/Title: Report on the Shadow Cheshire East Health and Wellbeing Board Terms of Reference

Portfolio Holder: Cllr Domleo
Cllr Gaddum
Cabinet Support Member Cllr Clowes

1.0 Report Summary

- 1.1 This report intends to inform Cabinet of the progress taken to establish the Cheshire East Shadow Health & Wellbeing Board and to gain Cabinet approval of the Terms of Reference for the Board before being sent to full Council for approval.
- 1.2 A Visioning Event was held on the 29th June 2011 involving a range of stakeholders to contribute to the Board's development, specifically in relation to its *vision, priorities, success measures* and *future model architecture*. The detailed summary and outputs from this event can be located within [Appendix 1](#).
- 1.3 Advice from the Borough Solicitor has been sought around governance of the Board and this has informed the Shadow Boards Terms of Reference. The full Terms of Reference can be seen in [Appendix 3](#). These Terms of Reference have also been shared with the Health and Wellbeing Scrutiny Committee.
- 1.4 The Terms of Reference have been created for the operation of the Shadow Health and Wellbeing Board during its shadow year of April 2012 to March 2013. It is anticipated that the content of the Terms of Reference may require amendments upon review of the final detail of the enacted Health and Social Care Bill and/or when further guidance is available on the governance and statutory responsibilities of the Board. The Terms of Reference will also have to be reviewed in advance of when the Board moves from Shadow form to that of a Statutory Committee.
- 1.5 A Working Group has been formed to support the development and commencement of the Shadow Health and Wellbeing Board. This working group have produced the current Terms of

Reference for the Shadow Board with the support of the Borough Solicitor.

2.0 Decision Requested

- 2.1 To note progress to date in establishing the Cheshire East Shadow Health and Wellbeing Board.
- 2.2 To accept the Shadow Health and Wellbeing Board Terms of Reference.
- 2.3 To note that the Shadow Health and Wellbeing Boards Terms of Reference will be reviewed in 2012-13 as outlined in point 1.4 of this report.

3.0 Reasons for Recommendations

- 3.1 The Health & Social Care Bill ('the Bill) outlines how the often informal joint working arrangements of the past are to be replaced by better co-ordinated and more accountable organisations sharing responsibility for public health, social care and commissioning. At the heart of this proposal is the duty given to local authorities to establish statutory **Health and Wellbeing Boards** in every upper-tier unitary authority by April 2013.
- 3.2 The Health and Wellbeing Board will be responsible for connecting NHS bodies (Clinical Commissioning Groups, NHS Providers, NHS Commissioning Board and others) local authorities and other agencies (Police, Fire, 3rd Sector) to ensure better outcomes for our population. They will have a strong role in promoting joint commissioning and integrated provision between health, public health and social care. They will have a duty to involve users and the public. Similarly relevant partners have a statutory responsibility to take note of and cooperate with their partners on the Health & wellbeing Board.
- 3.3 The Health and Wellbeing Board will be required to provide vision and a co-ordinated drive to address the health and wellbeing needs of our population to reduce unacceptable and avoidable variations in health and healthcare. The Government intends for Health and Wellbeing Boards to become deep and productive partnerships and develop solutions to commissioning challenges, rather than just commentating.
- 3.4 Health and Wellbeing Boards are intended to have four main functions:
 - to assess the needs of the local population and lead the statutory **Joint Strategic Needs Assessment (JSNA)** of the local population.

- where all parties agree this makes sense and for the benefit of the population, to promote integration and partnership across areas, including through joined up commissioning plans and pooled budget arrangements across the NHS, social care and public health.
- to enhance joint working arrangements through the development of a **Joint Health and Wellbeing Strategy**, informed by JSNA intelligence, spanning the NHS, social care, public health and potentially other services. This strategy will assist the development of commissioning intentions, and subsequent procurement and contracting of health and social care services by commissioners. Local authority and NHS Commissioners will be required to have regard to the Joint Health and Wellbeing Strategy.
- to improve local democratic accountability for local decisions about commissioned services. This is intended to be achieved through the involvement of local HealthWatch, patients and the public in the work of the Board and by ensuring that local people have a greater say in how care is provided.

Additional duties also include:

- the co-ordination of pharmaceutical needs assessment - which will inform the commissioning of community pharmacy services by the NHS Commissioning Board and local public health commissioning decisions.
- a formal role in authorising clinical commissioning groups. The NHS Commissioning Board will have to take Health and Wellbeing Boards' views into account in their annual assessment of commissioning groups.

- 3.5 Health and Wellbeing Boards will discharge executive functions of Local Authorities, and will be expected to operate as equivalent Executive Bodies do in local government.
- 3.6 Health and Wellbeing Boards will be subject to oversight and scrutiny by the existing statutory structures for the Overview and Scrutiny of Local Authority executive functions.
- 3.7 Much of the detail remains outstanding or unclear on how the Health and Wellbeing Board will work once it is fully operational. This detail is expected to be seen in the final version of the Bill and from the outcomes of the National Learning Sets around Health and Wellbeing Board development. The development of the Shadow Health and Wellbeing Board will rely on local determination in the absence of such guidance.

- 3.8 This report draws together the progress made in respect of establishing the Shadow Cheshire East Health and Wellbeing Board, its initial membership and preparation to support its commencement as covered in the Terms of Reference (the detail of which will be outlined in [Section 10](#) of this report).

4.0 Wards Affected

All

5.0 Local Ward Members

All

6.0 Policy Implications

- 6.1 The health and wellbeing of the residents of Cheshire East is everyone's business and as such implications for future policy development, service redesign and budget setting should account for the impact on the health and wellbeing of our population and indeed the priorities of the Health and Wellbeing Board.
- 6.2 Membership of the Health and Wellbeing Board will be very much based on local needs and priorities (subject to those agencies or individuals who have the statutory right to sit on the board). Health and Wellbeing Boards, in considering their membership, will be free to invite other members to sit on the board in order to maximise the gain from health outcomes and align these with employment, welfare and reductions in offending. Subject to the minimum mandatory/statutory members as outlined in the Bill, the final membership will be up to each Board to determine.
- 6.3 The draft Bill makes the assumption that the roles of Director of Adults Services and Director of Children Services are two separate individuals both of whom are statutory members of the Health and Wellbeing Board and would be able to vote. At the second meeting of the Cheshire East Shadow Health and Wellbeing Board (25th October 2011) it was decided that the Head of Integrated Strategic Commissioning & Safeguarding would become a statutory officer of the Board to address the dual role of the Strategic Director for Children's, Families and Adult Services within the Council.
- 6.5 The Shadow Health and Wellbeing Board Working Group is undertaking an exercise, on behalf of the Shadow Health and Wellbeing Board, to identify the sub groups that will undertake the work for the Board and whom may report directly to the Board as a consequence. These arrangements will be reported in a further report once the exercise has been completed and the Bill has been enacted.

- 6.6 Currently there is no apparent requirement for the Safeguarding Boards or Safer Cheshire East Partnership to be accountable to the Health and Wellbeing Board. Therefore, the Board is free to look at this as a possibility. We will also need to be guided by regulations as they are produced.
- 6.7 The question of Board quorum requirements is also a level of detail which may be regulated in the future or alternatively it may be a matter for the Local Authority to determine. Currently the board has resolved that its quorum arrangements will be set at 50%. Board has also agreed that substitutes would not be appropriate other than for the GP Chairs of each Clinical Commissioning Group represented on the Board and for Cheshire East LINKs who represent the voice of Cheshire East residents.

7 Financial Implications

- 7.1 The Bill indicates that the Health and Wellbeing Board will be a major decision making body of the local authority forming part of the Council's governance arrangements and it will therefore **require dedicated support from Committee Services in a similar way to that of Cabinet. The resource implications for Democratic Services and for Children's, Families and Adult Services** will need to be considered in order to effectively support the board.

8 Legal Implications

- 8.1 A revision to the Bill outlined in the *Government response to the NHS Future Forum report*¹ was that local authorities will have the discretion to determine the number of Elected Members on the Board and will be free to insist upon having an overall majority of Elected Members. The Bill outlines that the Leader of the Council will nominate Elected Members to sit on the Board and may sit on the Board himself should he choose to do so. You will note in [Section 10.2](#) the initial membership.
- 8.2 The guidance is currently silent on Voting Rights and this is the level of detail which we would expect to see set out in the regulations as these become available. We will need to see the guidance on voting and non-voting members but **where officers are statutory members of the board it seems that it be logical that the intention will be that they will also be eligible to vote rather than merely be there to advise or inform the board.** The Shadow Health & Wellbeing Board has resolved to seek consensus in its decision making, and where appropriate

¹ <http://healthandcare.dh.gov.uk/detailed-response/>

individual organisational ratification of decisions may be needed until the Shadow Board becomes statutory.

- 8.3 At the moment the Bill indicates that the Health and Wellbeing Board will become a Committee of the Local Authority under Section 102 of the Local Government Act 1972 but the regulations may provide that certain enactments will not apply to the operation of the Board. This is crucial in contributing to our understanding of the governance of the Board. The latest guidance suggests that the Health and Wellbeing Board will discharge Executive functions and will be subject to overview and scrutiny and should therefore operate as an equivalent body to the Cabinet in Local Government.
- 8.4 We would therefore anticipate that the Board (once established in a statutory form) **will need to be a formal decision making body**, and will be subject to all the normal access to information provisions in terms of publicity, agendas, meeting in public, inspection of background documents etc. As the items are subject to overview and scrutiny presumably we will need to consider pre scrutiny / calling etc. The provisions for the Executive (i.e. Cabinet) do not currently require political balance and so we assume that this is likely to be the case for Health and Wellbeing Boards.
- 8.5 Again the intention around the reporting structure is not clear but we anticipate that when fully operational the Health and Wellbeing Board **will report direct to full Council**, as necessary. As it is undertaking an Executive role, it **is likely to be able to deal with the majority of issues without referral to full Council** but there may be some major or strategic issues which will require full Council approval. Again this may be laid out in regulations or maybe a matter for the Local Authority to determine. In its **shadow form the Board feels that there is advantage in reporting to Cabinet which meets more frequently and can ratify some of the interim decisions where this is necessary.**
- 8.6 The timeframe for the establishment of Health and Wellbeing Boards are as follows:

April 2012

Health and Wellbeing Boards are required to come into existence in shadow form by April 2012. In Cheshire East the Shadow Board has been established since September 2011.

April 2013

Subject to passage of the Bill, the Health and Wellbeing Board will become a statutory committee of the Local Authority and formally assume their powers and duties in April 2013.

9 Risk Management

9.1 Corporate risks have been determined in respect of Health Partnerships. This can be found in [Appendix 2](#) and will be reviewed quarterly.

9.2 Risks that face the Health and Wellbeing Board have been drafted and can be found in [Appendix 4](#).

10 Background and Options

10.1 A Visioning Event was held on the 29th June 2011 involving a range of stakeholders to contribute to the Board's development, specifically in relation to its *vision, priorities, success measures and future model architecture*. The detailed summary and outputs from this event can be located within [Appendix 1](#).

10.2 Following the Visioning Event, a letter of invitation to become Board members of the Cheshire East Shadow Health and Wellbeing Board was sent from the Chief Executives Office to the following people:

Organisation	Role	Post Holder
Cheshire East Council	Cabinet Portfolio Holder – Health and Wellbeing, Adults	Roland Domleo – Chair
Cheshire East Council	Cabinet Support Member	Janet Clowes
Cheshire East Council	Cabinet Portfolio Holder – Children & Families	Hilda Gaddum
Cheshire East Council	Chief Executive	Erika Wenzel
Cheshire East Council	Director Children's, Families and Adult Services	Lorraine Butcher
Central & Eastern Cheshire Primary Care Trust	Director of Public Health	Dr Heather Grimbaldeston
South Cheshire Health Clinical Commissioning Group	Chief Officer	Simon Whitehouse
South Cheshire Health Clinical Commissioning Group	Chair / GP Lead	Dr Andrew Wilson
Eastern Cheshire Clinical Commissioning Group	Chief Officer	Jerry Hawker
Eastern Cheshire Clinical Commissioning Group	Chair / GP Lead	Dr Paul Bowen
Cheshire East LINKs	Chair	Barrie Towse

In line with the majority of Health and Wellbeing Boards that are being set up nationally, invitations for membership of the initial Shadow Board followed the statutory membership guidance outlined in the Bill.

Before the first meeting of the Shadow Board (27th September 2011), Councillor Dorothy Flude, Leader of the Cheshire East Labour Group was also invited by the Leader of the Council to sit as a member of the Board.

10.3 The Shadow Health and Wellbeing Board has resolved to meet on a monthly basis. So far the Board have covered and agreed the following:

- that decision making by the Board will (wherever possible) be by consensus and agreement
- that Board members cannot be represented at Board meetings by a nominated deputy, with the exception of the GP Chair of a Clinical Commissioning Groups and the Chair of Cheshire East LINKs / HealthWatch
- the nomination of Lucia Scally, Head of Integrated Commissioning and Safeguarding to the Board (as outlined in [6.3](#))
- to follow a Code of Conduct based upon the Nolan Seven Principles of Public Life
- to be guided by a Forward Plan in the initial stages of Board development. This contains key areas of work that will support the Boards work in the next financial year e.g. consultation and engagement, LINKS to HealthWatch, JSNA refresh and Joint Health and Wellbeing Strategy development
- a draft Terms of Reference for the Shadow Board

10.4 A Health and Wellbeing Board Working Group has been formed, consisting of officers from Cheshire East Council and Assistant Directors of Public Health from Central and Eastern Cheshire Primary Care Trust. This Working Group has been tasked to work collectively to provide appropriate advice notes and reports for consideration as the Board progresses towards commencement of its first full shadow year from April 2012. The Terms of Reference is an example of the work of this group and is outlined within this report and attached at [Appendix 3](#).

10.5 The Terms of Reference details the following:

- The purpose of the Board
- The functions of the Board
- The Board membership
- The Boards nomination arrangements
- The Boards quorum arrangements
- The Boards decision making arrangements

- The reporting arrangements for the Boards sub groups
- The frequency of Board meetings
- The access to meetings by members of the public during the operation of the Shadow Board
- The governance arrangements of the Board within the Council Constitutional arrangements.
- The Code of Conduct for Board members
- The communication and wider engagement arrangements to inform Board decision making

10.6 The Terms of Reference have been created for the operation of the Shadow Health and Wellbeing Board during its shadow year of April 2012 – March 2013. It is anticipated that the content of the Terms of Reference may require amendments upon review of the final detail of the enacted Health and Social Care Bill and/or when further guidance is available on the governance and statutory responsibilities of the Board. The Terms of Reference will also have to be reviewed in advance of when the Board moves from Shadow form to that of a Statutory Committee.

Appendices

Appendix 1	Cheshire East Health and Wellbeing Board Visioning Event Summary	 Summary from Visioning Event.d...
Appendix 2	Corporate Health Partnership Risk Log	 Health Partnerships Risk Templ...
Appendix 3	Terms of Reference for Shadow Health and Wellbeing Board	 Board draft ToR.doc
Appendix 4	HWBB Risk Log	 HWBB Risk Log Sept11v1.xls