

CHESHIRE EAST COUNCIL

REPORT TO: Cabinet

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| Date of Meeting: | 25/6/2012 |
| Report of: | Lorraine Butcher, Strategic Director – Children, Families and Adults Services |
| Subject/Title: | Report in relation to Shadow Health and Wellbeing Board's Terms of Reference |
| Portfolio Holder: | Cllr. Janet Clowes Portfolio Holder Health & Wellbeing |

1.0 Report Summary

- 1.1 Cabinet received a full report on the Cheshire East Shadow Health and Wellbeing Board's Terms of Reference in November 2011 [Appendix 1]. This was then presented and debated at full Council on 15 December 2011.
- 1.2 Full Council raised a number of concerns in respect of the proposed Terms of Reference and these primarily related to member representation on the board and voting rights of board members.
- 1.3 The draft Terms of Reference took account of the current information from the proposed Health & Social Care Bill and guidance provided centrally on the role and expectations of the Health and Wellbeing Board.
- 1.4 The current Cheshire East Shadow Health and Wellbeing Board is now in formal shadow year. The board will assume its statutory functions from April 2013 following the royal assent of the Health & Social Care bill on the 27th March 2012.
- 1.5 The Health and Wellbeing Board's focus is to develop a clear vision and sense of collective purpose that will ensure collaborative system transformation through strong, inspirational leadership. The board will:
 - Lead – through building relationships between health and local communities
 - Collaborate – through working together to better affect and increase life expectancy
 - Engage – through emphasising that one agency can not resolve the challenges we face in addressing and improving the health and wellbeing of our communities

- 1.6 This report will explain the subsequent review and revised terms of reference for the board in its shadow year which will then be further reviewed in late autumn in preparation for the board assuming its statutory powers in April 2013.

2.0 Decision Required

- 2.1 That Cabinet and Council support the shadow Health and Wellbeing Board's Terms of Reference.
- 2.2 That Cabinet and Council support the recommendation to further review the Board's Terms of Reference in advance of the Board assuming its statutory functions taking account of Board priorities expressed within the Joint Health and Wellbeing Strategy which will be finalised in the autumn following a period of consultation.

3.0 Reasons for Recommendations

- 3.1 The Board's initial draft Terms of Reference have been reviewed against a number of other terms of reference– Buckinghamshire, Leicestershire, Warwickshire, Lincolnshire, Croydon, Coventry Oldham, and Stockport. This analysis can be found in appendix 2.
- 3.2 The number of Council Members in most authorities is three, with Coventry having a member of the opposition party on the Board; this is in line with the current CEC shadow HWB arrangements and shows our awareness of the pattern of emerging good practice. The role and responsibility of members is outlined in **all** Terms of Reference and these are similar in all cases.
- 3.3 Voting arrangement - The Health and Social Care Bill [2012] does not specify voting arrangements and leaves it open to local determination. When the Board becomes statutory [April 2013] a local constitutional change will be required to account for the board being a formal subcommittee of the Council with both member and officer representation.

Lincolnshire is one of two authorities to have a section stating voting arrangements, they state that:

- Each Core member and substitute member shall have one vote
- Where possible decisions will be reached by consensus. In exceptional circumstances and where decisions cannot be reached by consensus of opinion, voting will take place and decisions agreed by a simple majority. The Chairman will have a casting vote.
- Decisions of the Shadow Board will be as recommendations to the partners organisations

These arrangements could be considered by our shadow Health and Wellbeing Board, **but any consideration should not detract from the emphasis on collaborative whole system benefit to its decision making**. Focusing on accountability to 'Place' and 'Local Population', and to what works, with reference to the highest evidence based interventions.

3.4 General observations:

- The majority of authorities included in this analysis have a section that looks at conflict of interest and conduct at meetings. Cheshire East's initial draft doesn't have either of these arrangements. We have also made no comments about reviewing these Terms of Reference which is important given that from April 2013 the Board will assume its statutory responsibilities. Board membership may need to be further shaped to support the work of the Board to address the priorities within the Joint Health and Wellbeing Strategy. The role of Core Membership and that of Associated Membership could be explored once the sub structure for the board has been fully determined.
- A useful addition to many of the Terms of Reference is a sub structure. This work has commenced but has not been concluded as yet but will be following the consultation on the Joint Health and Wellbeing Strategy. Currently the Board has agreed that the Joint Strategic Needs Assessment Steering Group and the Ageing Well Programme Board will be a part of this arrangement. However we would also anticipate that the Children's Trust, the Local Safeguarding Children and Adults Boards would also be part of this structure.
- We have included outcomes expected as have a few others, however the majority of councils include these within their aims or objectives, therefore this is about getting our language right within the revised Terms of Reference.
- Communications is only featured in one authority's Terms of Reference. This could be included, and links to the Board's communication strategy, when completed could be added.
- Another noted good practice was the inclusion of links to other policies such as the Joint Strategic Needs Assessment in the introduction to the Terms of Reference.
- Oldham state that the Board will be independently scrutinised by the Health and Wellbeing Select Group of the Borough Council, our revised Terms of Reference will emphasis this role and note that it will be undertaken by the Health and Wellbeing Overview and Scrutiny Committee.

- 3.5 The revised terms of reference based on analysis of the emerging best practice includes the following: **[Note that these Terms of Reference can be viewed at appendix 3.**

| Heading | Content summary |
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| Context | Explaining the origins of the HWB. |
| Purpose | Explaining the main roles and expectations of the Board within the Health and Social Care Bill. |
| Objectives | Provide strategic leadership Monitor health and wellbeing targets Ensure production of the JSNA Ensure production of JHWS Ensure joint work on integration of services and systems |
| Roles and Responsibilities | Describes how the Board members will work collectively to achieve its purpose and objectives. |
| Accountability | <p>The Shadow Board carries no formal delegated authority from any of the statutory bodies.</p> <p>Core Members bring responsibility, accountability to their individual duties and to their role on the Shadow Board.</p> <p>The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.</p> <p>The Council's Core Members will ensure that they keep the wider Council advised of the work of the Shadow Board.</p> <p>The Shadow Board will report to Full Council and to both NHS Clinical Commissioning Groups (CCG's) by ensuring access to meeting minutes and presenting papers as required.</p> <p>The Shadow Board will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Wellbeing Overview & Scrutiny Committee. Decisions taken and work progressed by the Board will be subject to scrutiny by this committee. A governance diagram explains the role of Local authority Scrutiny across the health and social care system.</p> |
| Membership | Portfolio Holder – Health & Adult Social Care [Chairman], Portfolio Holder – Children & Families, Opposition Party Member The Chief Executive of the Council, |

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| | <p>The Director of Public Health, The Director of Children, Families and Adults (+1)¹Chief Officer / Accountable Officer of the NHS South Cheshire Clinical Commissioning Group Chair. GP Lead of the NHS South Cheshire Clinical Commissioning Group Chief Officer / Accountable Officer of the NHS Eastern Cheshire Clinical Commissioning Group Chair. GP Lead of the NHS Eastern Cheshire Clinical Commissioning Group A designated representative from HealthWatch (LINKs will fulfil this role until HealthWatch is established).</p> <p>¹ Due to the Statutory Director holding two statutory roles for both Children's and Adults Services, they will nominate an appropriate Head of Service to attend to support this dual function.</p> <p>The above would be Core Members of the Board with Associate Members being considered once the Board's sub structure has been fully determined.</p> <p>The National Health Commissioning Board would be an associate member.</p> |
| Frequency of meetings | <p>The Shadow Board will meet no less than six times per year including an AGM.</p> <p>Additional meetings of the Shadow Board may be convened with agreement of the Chairman.</p> |
| Agenda and Notice of Meetings | <p>Any agenda items or reports to be tabled at the meeting should be submitted to the Council's Democratic Services no later than seven working days in advance of the next meeting. No business will be conducted that is not on the agenda.</p> <p>Democratic services will circulate and publish the agenda and reports at least five working days prior to the next meeting. Exempt or Confidential Information shall only be circulated to Core Members.</p> |
| Annual General meeting | <p>The Shadow Board shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting.</p> <p>The Shadow Board will approve the representative nominations by the partner organisations as Core Members.</p> |
| Quorum | <p>Any full meeting of the Shadow Health and Wellbeing Board shall be quorate if attended by a representative from NHS Eastern Clinical Commissioning Group, NHS South Clinical Commissioning Group, Health Watch, Portfolio Holder, and an Officer of the Council [CFA Directorate] or their representative.</p> |

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| | Failure to achieve a quorum within thirty minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall render the meeting adjourned until the next scheduled meeting of the Shadow Board. |
| Procedure at meetings | <p>Meetings of the shadow Board are not open to the public but papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website [once the terms of reference have been accepted]. The Board will meet in public once it assumes its statutory responsibilities in April 2013.</p> <p>Only the Core Members are entitled to speak through the Chairman. Associate Members and the Public are entitled to speak only at the invitation of the Chairman.</p> <p>With the agreement of the Shadow Board, the Shadow Board can set up subgroups to consider distinct areas of work.</p> <p>The subgroup will be responsible for arranging the frequency and venue of their meetings.</p> <p>Any recommendations of the subgroup will be made to the Shadow Board who will consider them in accordance with these terms of reference.</p> |
| Expenses | The partnership organisations are responsible for meeting the expenses of their own representatives. |
| Conflict of Interest | <p>At the commencement of all meetings all Core Members shall declare any Conflicts of Interest.</p> <p>Following the declaration of a Conflict of Interest the Member can decide to:-</p> <ul style="list-style-type: none"> • Remain for all or part of the meeting, • Participate in the meeting, • Vote at the meeting, • Leave the meeting. |
| Conduct of Core Members at Meetings | Board members will agree to adhere to the seven principles outlined in the Board Code of Conduct when carrying out their duties as a Board member – Nolan Principles |
| Review | <p>The above terms of reference will be reviewed at the last meeting of the financial year or earlier if necessary.</p> <p>Any amendments shall only be included by unanimous vote.</p> |

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 future priorities of the Health and Wellbeing Board once this is formally constituted from April 2013.
- 6.2 The NHS Operating Framework for 2012/13 describes the Health and Wellbeing Board's primary responsibility as to '....provide local systems leadership across health and social care and public health...'. Establishing a collaborative decision making approach of this Board is essential to achieving whole system accountability for the improvement of the health and wellbeing of Cheshire East citizens. This requires the delivery of integrated care services and effective integrated commissioning approaches to achieve the maximum benefits for people, families and communities within the collective resources of the health and social care organisations.

7.0 Financial Implications

- 7.1 None to note in respect of the terms of reference themselves.
- 7.2 Shadow Board carries no formal delegated authority from any of the statutory bodies in respect of resource decision making.**
- 7.3 The Shadow Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, who will act in accordance with their respective powers and duties.**

8.0 Legal Implications

- 8.1 The Health and Social Care Act 2012 requires the Local Authority to establish a Health and Wellbeing Board for its area. Mandatory membership includes at least one local Councillor (nominated by the Council's Leader) the Directors of Adult Social Services, Children's Services and Public Health, a representative of the Local Healthwatch Organisation and a representative of each Clinical Commissioning Group. The Local Authority may also nominate such other individuals as they consider appropriate.
- 8.2 Once established in April 2013 the Board will be Committee of the Local Authority but regulations under the Act may modify some of the normal

requirement of the Local Government Act 1972. The Board has a number of duties under the Act but specifically is tasked with a duty to encourage integrated working in the provision of health and social care services.

9.0 Risk Management

- 9.1 Corporate risks have been determined in respect of Health Partnerships, and this is reported to the Corporate Risk Management Group. Failure to establish a strong collaborative Board will impact on the health and wellbeing of Cheshire East citizens and indeed the councils own objectives within the Sustainable Communities Plan and Budget Book for 2012/13.
- 9.2 The Health and Wellbeing Board has established a Risk Register with responsible Board members owning specific risks. The Board has determined that they would wish to review these quarterly. This discipline will assist the Board in the management of issues of challenge.
- 9.3 The NHS Clinical Commissioning Groups are required to seek formal authorisation during this year. Having an effective HWB with agreed terms of reference will be a requirement. Evidence of such will need to be supplied as part of this process including the terms of reference.

10.0 Background and Options

- 10.1 The Health and Social Care Act 2012 has initiated a number of significant changes that will affect the local health and social care landscape. This includes the establishment of the Cheshire East Health and Wellbeing Board, the NHS Clinical Commissioning Groups and the transfer of Public Health responsibilities from the PCT to the Local Authority. When enacted, the Authority will have a greater role to play in setting policy, providing leadership and commissioning activity that will contribute to improved health outcomes for the population of Cheshire East with NHS Clinical Commissioning Groups.

The Joint Health and Wellbeing Strategy will be the mechanism by which the needs identified in the Joint Strategic Needs Assessment are met, setting out the agreed priorities for collective action by the key commissioners, the local authority, the NHS Clinical Commissioning Groups and the NHS Commissioning Board.

The key legislative changes are summarised as:

- i. Clinically led commissioning – the Bill puts clinicians in charge of shaping services, enabling NHS funding to be spent more effectively. Supported by the newly established **NHS Commissioning Board**, new **NHS Clinical Commissioning Groups** which will directly commission services for their populations.
- ii. Ensure provider regulation to support innovative services – enshrining a fair playing field in legislation for the first time, this will enable patients to be able

to choose services which best meet their needs – including from a charity or independent sector provider, as long as they meet NHS costs. Providers, including NHS Trusts, will be free to innovate to deliver quality services.

Monitor will be established as a specialist regulator to protect patient's interests.

- iii. A greater voice for patients – the Bill establishes **Healthwatch**, a patient and public organisation, both locally and nationally, to drive involvement across the NHS and local government.
- iv. New focus for Public Health – The Bill establishes a new body **Public Health England**, to drive improvements in the public's Health.
- v. Greater accountability locally and nationally – the Bill sets out clear roles and responsibilities, whilst retaining the Minister's ultimate responsibility for the NHS. The Bill limits micro-management and gives local authorities a new role to join up local services through the **Health and Wellbeing Board** with key other stakeholders.
- vi. Streamlined arms-length bodies – the Bill removes unnecessary tiers of management, releasing resources to the frontline.

The background papers relating to this report can be inspected by contacting the report writer:

Appendix 1 add weblink to Cabinet / Council report 2011

[http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000239/M00003670/\\$ADocPackPublic.pdf](http://moderngov.cheshireeast.gov.uk/ecminutes/Published/C00000239/M00003670/$ADocPackPublic.pdf) – pages 31-48.

Appendix 2 TOR Analysis document



TOR analysis.doc

Appendix 3 Cheshire East revised Shadow Health and Wellbeing Boards Terms of Reference



Draft Terms of
Reference.doc

Name: Lucia Scally

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