

Report to Health & Wellbeing Board	Reference number HWB/13/14
Date of meeting 20 May 2014	County Divisions affected by the decision All Divisions
Title of report Matters of Governance for consideration by Health and Wellbeing Board	
Report by Dave Hill, Executive Director for People Commissioning	
Enquiries to Sheila Norris, Integrated Commissioning Director - Telephone 07740 180043, email sheila.norris@essex.gov.uk	

1. Purpose of report

- 1.1. Key developments such as the Better Care Fund, pooled budgets and integrated and joint commissioning arrangements require a more agile approach to governance. This report suggests various amendments to bring about a more streamlined approach to decision making, which includes making changes to the membership of the HWB. This report asks the Board to consider and amend the governance and accountability arrangements for Health and Social Care integration.

2. Recommendations

- 2.1 Agree to appoint the following additional members of the Health & Wellbeing board:
 - (a) two representatives of the acute hospitals trusts (Colchester Foundation Trust and the Mid-Essex, Princess Alexander, Basildon and Thurrock and Southend NHS Trusts); and
 - (b) one representative from each of the North Essex Partnership Trust and the South Essex Partnership Trust

Such representatives to be appointed by the Board on the nomination of the relevant trust(s)

- 2.2 Wind up the Business Management Group.

- 2.3 Establish a Secretariat representing health partners (membership to be agreed by a future report to the Board) to plan the Board's business and to ensure that regular strategic reports are considered by the Board, giving assurance on agreed spend and outcomes in pooled budget areas.
- 2.4 Agree that the Board will appoint task and finish groups, chaired by a HWB member, to undertake special reviews on specific areas to report back to the Board on their findings.
- 2.5 Establish a 'Health and Social Care Programme and Project Board, representing health partners (membership to be agreed by a future report to the Board), to manage the health and social care integration agenda
- 2.6 Confirm that the Board will (subject to approval by the ECC Cabinet and CCG Boards) consider annually the County wide pooled budget arrangements between Essex County Council and the CCG's, including the 'envelope' of resources
- 2.7 Recommend that each CCG invites a member of the Council, nominated by the Leader, to attend and speak at their Board meetings.
- 2.8 Confirm that the key activity of strengthening and mobilising communities arising from the 'Who Will Care?' commission is progressed by the Essex Partnership Board, with regular reports to the Board.

3. Background and Proposal

- 3.1 Health and wellbeing boards are an important feature of the reforms introduced by the government in the Health and Social Care Act 2012. The overall purpose of the boards is to bring together bodies from the NHS, public health and local government, including Healthwatch as the patient's voice, jointly to plan how best to meet local health and care needs. The Board's full composition and terms of reference are set out in appendix 1, but the principal statutory duties are:
 - 1. to assess the needs of their local population through a Joint Strategic Needs Assessment (JSNA).
 - 2. to set out how these needs will be addressed through a joint health and wellbeing strategy that will offer a strategic framework in which CCGs, local authorities and NHS England can make their own commissioning decisions.
 - 3. to promote greater integration and partnership, including joint commissioning, integrated provision and pooled budgets.
- 3.2 The size of Essex gives it unusual complexity. There are five CCGs, 5 Acute Hospitals, 12 District Councils and a diverse community and voluntary sector. Southend and Thurrock unitary councils, with a further two CCGs in those areas, also add complexity.
- 3.3 The existing operating model and governance structure between the Council and the NHS/CCGs requires further development. The volume of business relating to

health and social care integration programmes has increased and current arrangements were not designed to support the leadership and delivery of a complex change agenda. For example, much of the detail of integration programmes needs to be agreed on a CCG locality basis and ECC Members are not party to these discussions. As the health and social care integration process gains pace the governance arrangements are in need of review.

- 3.4 Other partner agencies such as district councils, Police, voluntary sector also have a close interest in health and social care integration, and any new arrangements need to recognise their role. No changes are proposed to the involvement of these partners in HWB arrangements but they have an interest in the recommendation below relating to 'Who Will Care?'
- 3.5 Hitherto the governance arrangements have had at their centre the Health and Wellbeing Board (HWB). This ran for a year in shadow form, before becoming a statutory body in April 2013. The HWB is required to be constituted as a committee of the County Council and is governed by the structures and processes of the Council.
- 3.6 The Better Care Fund (BCF) has deepened and accelerated the integration agenda and further integration is now confirmed government policy, with an expectation of full integration by 2017/18. The BCF will bring about a 'pooled budget' situation from 2015/16 between the Council and the five CCGs. These pooled budgets, although hosted by the Council, will effectively be the vehicle for progressing a joined up and integrated approach to commissioning and delivery of services.
- 3.7 The emergence under BCF of pooled budgets between the Council and 5 CCGs (although pooled budgets between the Council and wider NHS are not new), raise some very particular issues regarding governance. Effectively the Better Care Fund plans are a joint statement of deployment of resources and outcomes, between the CCGs and the County Council. As a result it is necessary to review how the Board Operates.

Future Support for the Board

- 3.8 In and around the Health and Wellbeing Board there are presently a number of functional groups that have been formed. Any review of future arrangements needs to consider these in the round alongside the HWB. The prime group is known as the Business Management Group (BMG). This is comprised of senior Council officers and the Accountable Officers from the five CCGs. NHS England and Healthwatch also attend. The BMG meets fortnightly and its role, remit and purpose has grown in the 18 months that it has existed. In order to improve management of business, it is proposed to replace the business management group with two groups (there may be many common members of these groups, but the functions are distinct and separate):
 - a. A secretariat for the HWB to manage the agenda planning and business of the Board and ensure that regular high level reports are considered by the board, giving assurance on agreed spend and outcomes on pooled budget areas; and

- b. A programme and project board. This will need to support the HWB to fulfil its statutory functions. In particular it will need to manage the complexity and drive the delivery of the broader health and social care integration agenda. The scope and content of the programme overseen by this board and its terms of reference will need to be agreed by the HWB. It will also be important for the board to ensure there are robust arrangements in place to manage delivery of individual programmes and projects.

Membership of the Board

- 3.9 The role and place of the acute hospitals is key in the health and social care integration agenda, but at present they have not featured in the HWB or other governance arrangements. Neither have other providers of health care. At a simple level, acute hospitals are 'commissioned' by the CCG's, but there is a growing view nationally that unless the acute hospitals are embedded into the partnership arrangements, then transformation of the NHS and social care system will not progress at pace. While the membership of providers offers the opportunity for agreement across the health and care system, it also presents some challenges if HWB is considering commissioning. Further consideration will be necessary to address how to avoid conflicts of interest for providers when the Board is considering Commissioning matters.

'Deep-Dive' in specific areas

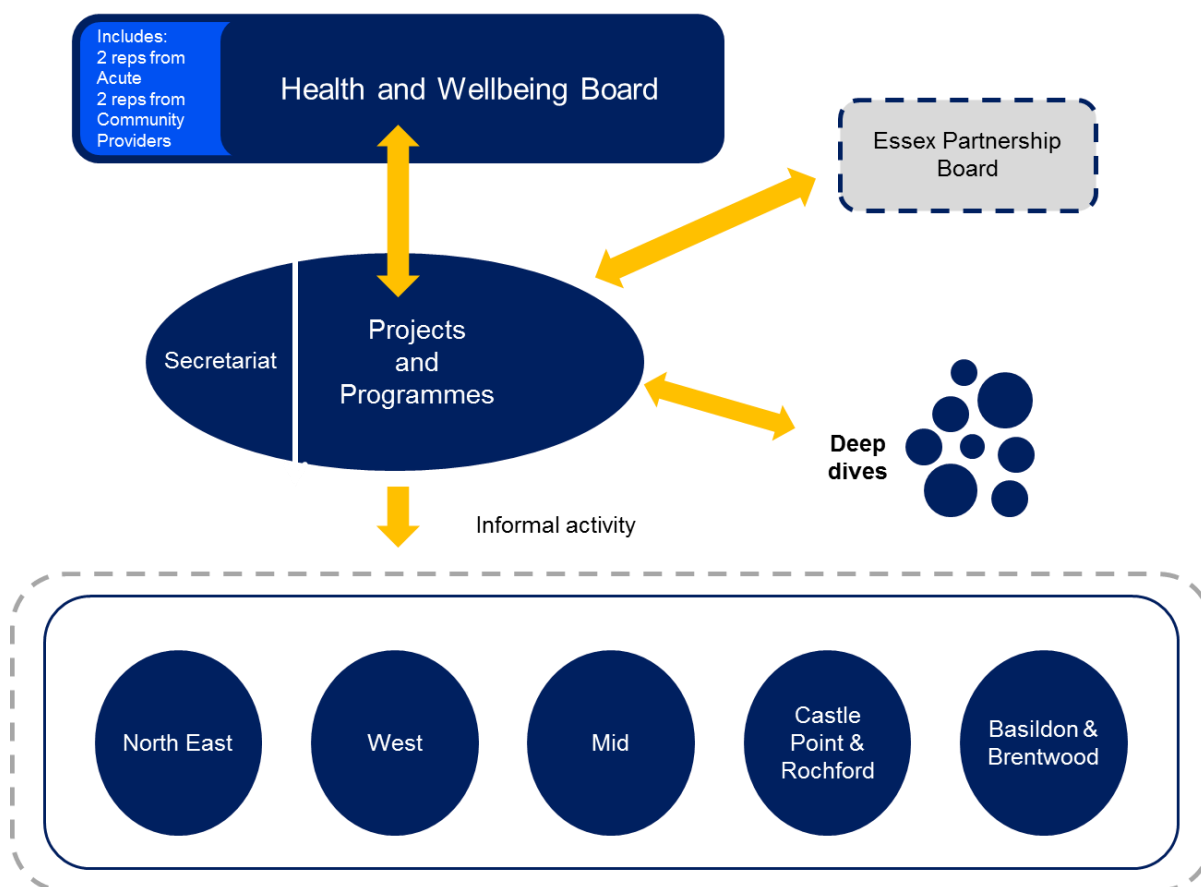
- 3.10 There will be occasions on which the HWB may decide it needs a more in-depth look at a particular area of health or care to support HWB's understanding of the issue. To enable this HWB should have the facility to ask for a task and finish group to undertake a 'deep dive' on a specific area, chaired by a nominated HWB member, with co-opted members as required to monitor progress and report back to the HWB on their findings.
- 3.11 Outside the formal governance arrangements, there should of course be regular meetings of partners to consider the health and care agenda and discuss how this should be progressed.

Working with CCG Boards

- 3.12 It is proposed that the Board should agree annually via Cabinet the county wide pooled budget arrangements between Essex County Council and the CCG's, including the 'envelope' of resources.
- 3.13 In order to promote closer working between the Council and CCGs it is recommended that CCG boards invite a nominated Council member to attend as observers at CCG Board meeting to ensure that within the overall budget parameters that local CCG decisions can be made within the CCG board structures. We recognise that currently neither the Council nor CCGs have the power to appoint to CCG boards. Indeed the regulations do not allow local authority members to join CCG boards. Our intelligence suggests that there may be plans afoot to change these regulations as other HWB areas are finding this prohibition unhelpful. In the meantime Members would attend as observers.

‘Who Will Care?’

- 3.14 That the key activity of strengthening and mobilising communities arising from the ‘Who Will Care?’ commission is ‘owned’ by the Essex Partnership Board, with regular reports to the HWB.
- 3.15 A diagrammatic map of the proposed new arrangements is shown below.



3.15 Next steps include:

- Inviting the 5 Essex acute hospitals to agree their representation to HWB
- Inviting NEPT and SEPT to become members of the HWB
- Reviewing the HWB terms of reference. In particular these would need to cover the requirement for providers to excuse themselves from discussion of items involving commissioning decisions
- Agreeing the scope, format and frequency of high level reports to the HWB to give assurance on agreed spend and outcomes on pooled budget areas.
- Bringing proposals on membership and terms of reference for the secretariat and programme and project management board to the HWB to agree. The arrangements for managing individual programmes and projects also need to be reviewed to ensure these are robust.

- Discussing further with CCGs the arrangements for a Council member to attend CCG boards and nominate these Members.
- Developing detailed proposals on county wide pooled budget arrangements between Essex County Council and the CCG's, including the 'envelope' of resources. These arrangements will culminate in a set of S75 agreements which will be submitted to Cabinet for formal approval.

4. Policy context

- 4.1. The Health and Social Care Act 2012 established health and wellbeing boards as a forum where key leaders from the health and care system work together to improve the health and wellbeing of their local population and reduce health inequalities.
- 4.2. Health and wellbeing boards are a key part of broader government plans to modernise the NHS to:
 - a) ensure stronger democratic legitimacy and involvement
 - b) strengthen working relationships between health and social care, and,
 - c) encourage the development of more integrated commissioning of services
- 4.3. The Government's stated policy intention is that health and social care integration should be the norm by 2018 and has interdependency with:
 - a) Everyone Counts: Planning for Patients 2014/15 to 2018/19
 - b) The Care Bill
 - c) The announcement of the Better Care Fund (previously referred to as the Integration Transformation Fund) was made in June 2013 as part of the 2013 Spending Round.
- 4.4. The Essex Health and Wellbeing Board agreed the first health and wellbeing strategy for Essex at its inaugural meeting in March 2013. The vision of the strategy is:

By 2018 residents and local communities in Essex will have greater choice, control, and responsibility for health and wellbeing services. Life expectancy overall will have increased and the inequalities within and between our communities will have reduced. Every child and adult will be given more opportunities to enjoy better health and wellbeing.
- 4.5. In March 2014 (and in line with national guidance and timescales), the Essex Health and Wellbeing Board (and the Essex County Council Cabinet) approved submission of the Essex Better Care Fund plans to NHS England. This set out the proposals for spending the Better Care Fund in Essex for 2015/16 onwards and agreed in principle to establish a pooled Better Care Fund from 1st April 2015 under section 75 of the National Health Service Act 2006 and for Essex County Council to host on behalf of all partners. This paper further provides for ECC to agree annually via Cabinet the county-wide pooled budget arrangements between Essex County Council and the CCG's, and to nominate a Council

member onto each CCG board to ensure that within the overall budget parameters that local CCG decisions can be made within the CCG board structures

- 4.6. The review, and proposed extension of, membership is in line with a key recommendation in the 'Who Will Care?' report, published in September 2013. The independent commission, chaired by Sir Tom Hughes-Hallett, made a number of recommendations, including a view that "ideally the leadership [of the Essex health system] must include providers as well as commissioners and, through Healthwatch, the voice of the Essex people." This proposal fulfils that recommendation.
- 4.7. The Health and Wellbeing Board is also crucial to the achievement of a number of the County Council's aspirations as set out in its Corporate Outcomes Framework (agreed in January 2014), specifically the achievement of the following outcomes:
 - Children in Essex get the best start in life
 - People in Essex enjoy good health and wellbeing
 - People in Essex live in safe communities and are protected from harm
 - People in Essex can live independently and exercise control over their lives

5. Financial Implications

- 5.1. Although there are no financial implications as a direct result of these recommendations, the HWB is an extremely influential body and will have significant involvement in allocating future funding streams against the backdrop of the current financial climate for both the NHS and local government.

The Better Care Fund (BCF) has deepened and accelerated the integration agenda and further integration is now a confirmed government policy with an expectation of full integration with 5 years. For 2014/15, reference Department of Health (DH) Local Authority Social Services Letter LASSL (DH) (2014) 1 which set out the two components of funding allocations, the NHS transfer (£900 million) and preparing for the Better Care Fund (£200 million). For Essex for 2014/15 the total £27.131m broken down to NHS transfer of £22.199m and preparing for the Better Care fund £4.932m. This will rise to a minimum Better Care Fund of £94.9m in 2015/16 and be managed through 'pooled budget' arrangements between the Council and the five Clinical Commissioning Groups (CCG's). Pooled budgets are mandatory from April 2015 under the Government's BCF programme, and will be hosted by the Council. They are effectively the vehicle for progressing a joined up and integrated approach to the commissioning and delivery of services.

- 5.2. The financial context for the integration of health and social care is both challenging and uncertain. Health and Adult Social Care services in Essex collectively spend around £2.5 billion each year. Essex County Council spends

around 43% of its 2014/15 net revenue budget on Adult Social Care. The current MTRS for the service incorporates additional funds of £89m over the period to 2016/17 for inflation and demographic growth, offset by planned savings across the service over the same period of £75.3m. Further savings are likely to be required to close the current budget gap reported at County level of £69m. The five CCG's, also need to make aggregate savings in the region of £84.0m¹ (5%) of their combined budgets totalling £1,631.0m for 2014/15.

6. Legal Implications

- 6.1 The HWB was established by the Council as a result of the Health and Social Care Act 2012. The Board's existing membership and terms of reference are reproduced as Appendix 1. As the Appendix demonstrates, the Board has a minimum statutory membership but the Council or the Board may appoint additional members. The Board also has minimum statutory terms of reference which the Council may enhance. As yet it has not chosen to do so. The resourcing and configuration of social care and public health remain responsibilities of the Council's executive. Accordingly advancing the integration agenda requires close working between the Board and the Council's Cabinet in addition to co-operation with CCGs and other health partners.
- 6.2 Additional members of the Board will fall within the statutory definition of co-opted members of the Council. As such they will be subject to the Council's Code of Conduct and statutory requirements resulting from the Localism Act 2011, relating to the disclosure and registration of interests.
- 6.3 By virtue of Regulation 12 and Schedule 5 of the National Health Service (Clinical Commissioning Groups) Regulations 2012 local authority members are not eligible to serve as members of CCG Boards. However if a CCG Board so decided there would be no objection to such a member attending by invitation. If the law in this respect changes, a further report will be brought to the Board.

7. Staffing and other resource implications

- 7.1 There are no staffing implications as a result of these recommendations.

8. Equality and Diversity implications

- 8.1 This report proposes governance changes and is not expected to have any adverse impact on any group with a protected characteristic under the Equality Act 2010.

¹ Health and Social Care Integration Workshop 18-19 June 2013, page 7

9. Background papers

None

Appendix 1 – Current Membership and Terms of Reference of Health and Wellbeing Board

The Board is established in accordance with Section 194 of the Health and Social Care Act 2012 and constituted to meet local requirements.

Membership

Membership Statutory Member	How Nominated or Appointed
3 x County Councillors*	As nominated by County Council Leader
Essex County Council Director for Adult Social Care (DASS)	By appointment to post
Essex County Council Director for Children's Services (DCS)	By appointment to post
Essex County Council Director for Public Health (DPH)	By appointment to post
Health Watch Essex	Nominated by Health Watch Essex
North East Essex CCG	Nominated by North East Essex CCG
Mid Essex CCG	Nominated by Mid Essex CCG
West Essex CCG	Nominated by West Essex CCG
Basildon & Brentwood CCG	Nominated by Basildon & Brentwood CCG
Castle Point & Rochford CCG	Nominated by Castle Point and Rochford CCG
Other Member	How Nominated or Appointed
Chief Executive of Essex County Council	By appointment to post
4 Borough/City/District Council Representatives	Nominated by Borough/City/District Council Leaders and Chief Executives Group
Voluntary Sector representative	Nominated by EACVS
NHS Commissioning Board Essex LAT Director	By appointment to post

*statutory requirement for at least one County Council elected member

The Health and Wellbeing Board has the duty to encourage integrated working. It must:

- for the purpose of advancing the health and wellbeing of the people in its area, encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner;
- in particular, provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 (arrangements between NHS bodies and local authorities) in connection with the provision of such services;
- lead the creation, development and publication of the joint health and wellbeing strategy for the Essex health and wellbeing system and recommend to partners;
- approve the publication of the latest version of the Joint Strategic Needs Assessment (JSNA); and
- ensure the development of the JSNA for the County (incorporating the required Pharmaceutical Needs Assessment).

The Board's powers are constrained by its terms of reference and any additional powers that may be delegated by the Council to the Board possibly following agreement with partner authorities. If despite advice, the Board took a decision that went beyond its powers, such a decision would be of no effect.

This will be achieved by:

- engaging partners and stakeholders in the system to oversee development and delivery, within collective available resources, of:
- integrated commissioning and care;
- improving population health status;
- reducing health inequalities;

- ensuring that Integrated Plans have regard to the Joint Strategy and JSNA assessments and, where appropriate, Community Budget business cases;
- holding one another accountable as partners & in partnerships for progress on outcomes in the joint strategy;
- securing democratic legitimacy and involvement in planning and delivery of health and wellbeing services;
- receiving assurance through Health Watch Essex on effective public engagement in commissioning locally;
- approving and monitoring progress on community budget business cases for Health and Wellbeing, Families with Complex Needs, Strengthening Communities and any other relevant business cases that may emerge;
- reviewing current or emergent financial, organisational and service challenges or failures across health and wellbeing services in Essex;
- ensuring system assets are identified and engaged in developing whole system solutions for health and wellbeing;
- developing the framework and system rules to enable partnership working;
- promoting learning and innovation and best practice in partnership working in Essex;
- promoting learning and innovation in person-centred service delivery;
- working collaboratively with neighbouring Health and Wellbeing Boards; and
- encouraging the development of local Health and Wellbeing Board arrangements within Essex