

Report to: **East Sussex Health and Wellbeing Board**

Date: **16 April 2013**

By: **Becky Shaw, Chief Executive, East Sussex County Council**

Title of report: **Health and Wellbeing Governance**

Purpose of report: **To provide an update on the governance arrangements for the Board and to confirm details of a review of the Board**

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## **RECOMMENDATIONS:**

**The Board is recommended to note the:**

- 1. work done on reviewing the governance arrangements to date;**
  - 2. terms of reference for the Board; and**
  - 3. planned review and timeline.**
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## **1. Background**

1.1 Prior to the Health and Social Care Act 2012 being given Royal Assent it was clear that all upper tier councils would need to establish Health and Wellbeing Boards. To prepare for this, East Sussex County Council (ESCC) put in place a Shadow Health and Wellbeing Board in October 2011. This Shadow Board held public meetings from March 2012 prior to taking over its statutory duty on 1<sup>st</sup> April 2013.

1.2 In developing the Shadow Board, a formal review was undertaken to help develop the terms of reference and Board membership. It was also agreed to review the Board after the legislation had come into effect to ensure it:

- Reflected best practice;
- Complied with secondary legislation; and
- Addressed local needs.

1.3 Secondary legislation is now coming into effect and ESCC will need to consider this and its impact.

1.4 In addition, the Board needs to make sure that in developing its governance arrangements it does not undermine or conflict with other key players such as the Health Overview and Scrutiny Committee (HOSC) and Healthwatch (HW).

## **2. Preparing the Ground**

2.1 ESCC commissioned an interactive workshop called *Preparing the Ground* to help the Council and partners explore the new governance roles and relationships. The workshop allowed participants to test how the new system would work and explore any differences. A workshop report is attached as Appendix 1 setting out the lessons learnt.

2.2 A number of priorities were identified in the report which require work with a number of different bodies. A further report on how these have progressed will be tabled for consideration by the Board as part of its governance review in July 2013.

## **3. Health and Wellbeing Board Terms of Reference**

3.1 The Board is a statutory committee of ESCC and the Council had to formally establish the

Board and agree its terms of reference to enable the Board to legitimately function from 1 April 2013. The Health and Social Care Act 2012 provides that the ESCC representatives on the Board are appointed by the Leader of the Council. There are County Council elections on 2 May 2013 and as a result there may be changes in representation after this date. The terms of reference that have been in place during the Shadow phase have been nominally changed to reflect learning and changes over recent months. The updated terms of reference are attached as Appendix 2.

3.2 The key changes for the terms of reference are as follows:

- Organisation changes as part of the NHS reforms, for example, the NHS Sussex representative has been replaced with a representative from Surrey and Sussex Area Team of the NHS Commissioning Board;
- In the light of best practice, a Deputy Chairman should be chosen from the Clinical Commissioning Group (CCG) representatives;
- Establishing the level for the meeting to be quorate;
- Providing the Sussex Police and Crime Commissioner with a non-voting observer place at Board meetings until the review is completed;
- Directing issues to and receiving reports from the appropriate ESCC Scrutiny Committees; and
- Providing an annual report to a full meeting of the County Council on the work and achievement of the Board.

#### **4 Review Timeline**

4.1 The following review timeline for the Board will take place:

- May 2013 - clarification of representatives from the new organisations to be obtained.
- May 2013 - nomination from the CCGs for Deputy Chairman of the Board to be agreed.
- July 2013 - paper to come to the Board covering key priorities and suggested response from the Preparing the Ground exercise.
- July 2013 - membership to be confirmed at the Board.

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# **‘Preparing the Ground’**

developing good governance around Health and Wellbeing Boards (HWB)

## **Simulation Event Report**

### **Introduction**

April 2013 marks the formal establishment of the Health and Wellbeing Board (HWB) as an executive body of East Sussex County Council (ESCC). The role of the HWB will be to bring together the key decision makers across the NHS and local government; to set a clear direction for the commissioning of health care, social care and public health; to drive the integration of services across communities; to improve local democratic accountability and to tackle inequalities in health.

At one level this is very clear but there remain questions about how the Board will work in practice, particularly given that there are other structures that have complementary if not overlapping responsibilities. Healthwatch East Sussex (HW) and the Clinical Commissioning Groups (CCG) have a remit to engage local people in decisions about their health care. The Health Overview and Scrutiny Committee (HOSC) in common with the HWB is described as ‘playing a positive strategic role in improving services and tackling health inequalities’. There are also questions about the relationship between the county, district and borough councils that are worth clarifying.

*Preparing the Ground* was the name of an interactive workshop, designed and facilitated by *Loop2*, to help East Sussex County Council and its partners from district/borough councils, public health, the health and care commissioners and providers to explore how the new governance roles and relationships will work. The workshop centred on a series of hypothetical but realistic stories (Annex 1) that enabled participants to test their assumptions about how the new system will work and to explore any differences their might be between them. These provided a safe space for participants to explore and experience the new arrangements before they become formally established.

Introducing the event Becky Shaw, Chief Executive, ESCC, noted that the scale of the changes taking place in public health, health and social care reinforced the need for good governance arrangements across all partners and partnerships. She reflected that it is typically easier to identify poor governance than it is to specify how it should work. The workshop was intended to help identify any potential weak spots in East Sussex’s governance arrangements and agree what needed to be done to address them. A brief synopsis of the stories used and more important, the learning they generated is set out in the following pages. A list of participants can be found in Annex 2.

### **Learning from Case 1: Protecting local interests**

This case centred on a CCG bringing a proposal to close a community hospital in a poor state of repair for discussion at the HWB and the HOSC.

- **The right focus** - there was broad agreement that this was the sort of issue that should be discussed by the HWB. Most felt that it would be sensible for CCGs to bring reconfiguration proposals to the Board before discussion with the HOSC. It was also noted that CCGs should not leave it to the formal public meeting to inform HWB members –

there would need to be informal discussions and briefings so that Board members' reflections could be taken into account in the formal proposals that came to the HWB;

- **Relationships between the HOSC and HWB** - the HOSC and HWB do not have direct links with each other. In East Sussex, the Chair of the HOSC attends the HWB so would be aware of the nature of the debate that had taken place. Some participants noted that the relationship between these two bodies should not be too close as HOSC could find it difficult to take a dispassionate view. The officers supporting HOSC and HWB could help to ensure that the two bodies worked in a complementary way. Protocols to guide 'who does what, when and in which circumstances' were also suggested.
- **Raising awareness of HWB, HOSC and HW** - while participants felt they had a good understanding of the respective roles of HWB, HOSC, HW and other bodies, this was not necessarily shared by their colleagues (eg. other Councillors and more junior staff). A simple graphical illustration of 'who does what' and how they relate to each other and to the public might help to raise awareness of how the governance of the health and care system should operate;
- **Making decisions** - HWB members stressed that the Board had no mandate to make decisions about ESCC funding or CCG commissioning. The role was primarily advisory as it is the ESCC Cabinet and the CCG governing body that makes decisions;
- **The interests of individual HWB members** - there was agreement that elected Members of the HWB should focus on what is best for the people of East Sussex rather than representing their particular ward. This was particularly important given that not all localities at ward level are represented in the HWB;
- **The challenge for elected Members** - some Councillors noted that despite the above principle there may be circumstances where they would find it difficult to support proposals that involved a loss or change of services for their constituents, even if it delivered improvements for them and the wider population. There may be situations where Members need to step aside from the debate and the Board's decisions. There was agreement that ideally the Board should make agreements through consensus rather than resorting to votes;
- **The contribution of HW** - the HWB should take account of the views of local people and HW has a role in informing the HWB to this effect. Some participants stressed the importance of HW 'reaching out' to gain the views of those sections of the community that were more difficult to engage. Being clear about whether the need for and process of engagement was with patients, special interest groups or with the wider public was felt to be useful; and
- **HW views** - some concerns were raised about how far HW could go in expressing views on service reconfiguration proposals, given the different forums where HW is represented. For example, HW's independence could be challenged if it was closely involved in a decision by the HWB to support a reconfiguration proposal, then involved in the consultation process as well as a member of the HOSC scrutinising the impact of the proposals. It is important that HW builds public trust and demonstrates its independence and effectiveness in both gathering and representing public and patient views. In the early days of HW it was suggested that it needed to spend time understanding and explaining its role, remit and priorities.

## Learning from Case 2: Big improvements

This story concerned a priority that had been agreed by the HWB in its Health and Wellbeing Strategy but which had resulted in stark differences of opinion about how the strategy should be implemented. The case was designed in part to trigger discussion about how far the HWB should get involved in strategy implementation.

- **From strategy to planning** - on balance participants agreed that the HWB should go beyond just identifying health and wellbeing priorities. The HWB should also consider how those priorities will be delivered and monitor the impact and effectiveness of the agreed actions;
- **The contribution of District and Borough Councils** - the contribution District and Borough Councils can make to the delivery of health and wellbeing improvements was noted as an area that could be explored and strengthened in East Sussex;
- **Informed by evidence** - the Public Health Systems Partnership has a role in informing the Board about the delivery options and their relative effectiveness. It was noted that to date public health evidence has tended to focus on quantitative analysis: as it tackles health and wellbeing, the HWB would need to consider evidence from 'softer' disciplines such as behavioural economics and social marketing to help shift attitudes and behaviour;
- **Strategic or operational** - there were differing views about whether the HWB could be considered a commissioning body. The legal position is that it is not. However they could support and enable those with formal commissioning responsibilities for public health, social care and health care work in an integrated way; and
- **Working with other partnerships** - there are many other partnerships and alliances across East Sussex whose work is of potential relevance to health and its wider determinants. It is important that the HWB does not stray into and duplicate the work of these other bodies, but works with them, influencing their agendas where appropriate.

### Learning from Case 3: Tomorrow's generation

This story concerned the relationship between HWB priorities and the spending decisions of ESCC, CCGs, the NHS National Commissioning Board and others with responsibilities that affected the wider determinants of health and well being.

- **Decisions on spending priorities** - it was suggested that discussions about aligning spending to HWB priorities might not take place in the HWB initially. For example, there would need to be discussion in the Joint Commissioning Board and potentially with other contributors (eg. the Police and Crime Commissioner);
- **Political realities** - some suggested that it was inevitable that the HWB would have to face politically motivated challenges. Good evidence to justify health and wellbeing priorities and how they are to be addressed will help Councillors justify controversial decisions to their constituents;
- **The role of commissioning support** - In addition to the analytical and public engagement support offered by the public health network and HW, the CCGs' Commissioning Support Units (CSU) might also be able to contribute to HWB business. This would, however, need to be agreed with the CSU's clients, the CCGs; and
- **Evaluating the performance of the HWB** - it was argued that the HWB already has an evaluation framework to underpin its work. Primarily this concerns monitoring the action plan. There may be other ways in which the HWB influences health and wellbeing and adds value to the work of the member organisations that are represented on it which may not be captured in the action plan monitoring approach. The awareness of the public about the HWB and the perceptions of HWB members about the HWB's performance and contribution might be further indicators of the HWB's effectiveness. A form of '360 degree' assessment was a further suggestion and this might pick up on wider issues such as the effectiveness of relationships between the HWB and HOSC.

## **Taking the learning forward**

In the final part of the programme participants identified a number of actions that would help to strengthen the foundation of good governance that has started to be put in place.

The priorities that were identified were:

- A reconsideration of how HWB performance will be measured, beyond action plan monitoring;
- The development of protocols between the HWB, HOSC, HW and other partnerships to guide decisions about 'who does what and when' and how communications will be handled. An example would be the handling of reconfiguration proposals or savings programmes;
- There are many parties that could draw on or benefit from sharing the available evidence and the process for doing this needs to be designed and agreed;
- Clarification of the role of HW on the HWB and HOSC to ensure that stakeholders and the public understand as well as to avoid any potential conflicts of interest or challenges to due process;
- An encouragement for the NHS Commissioning Board - with the role as commissioner of specialised NHS services - to take an active role in the work of the HWB alongside the CCGs. People involved in joint commissioning reported that they had already developed improved working relationships; and
- The sharing of information about local responsibilities for commissioning different services. There is a helpful paper from the NHS Commissioning Board that sets out the spread of commissioning responsibilities between the Board, Council public health departments, Public Health England and CCGs. In East Sussex further detail is needed to document 'joint' and 'lead' commissioning arrangements.

### **Commentary**

ESCC, its partners in health care, public health and District and Borough Councils have established a strong foundation for securing better health and wellbeing improvements at a strategic level and through the various delivery mechanisms. The actions above, combined with investment in communications to raise public and partner awareness of the new arrangements, should help to refine both the governance of individual bodies and of the system as a whole.

## Annex 1 – Simulation event micro cases

# *‘Preparing the Ground’*

developing good governance around Health and Wellbeing Boards

### Simulation event

April 2013 marks the formal establishment of the Health and Wellbeing Board (HWB) as an executive body of East Sussex County Council (ESCC). The HWB has a responsibility for assessing the health and wellbeing needs of the population of East Sussex, (through a Joint Strategic Needs Assessment) and using that to develop a set of priorities (Joint Health and Wellbeing Strategy), which will be used by commissioners to help inform their spending decisions. It will ensure that plans focus on the needs of East Sussex residents by communicating with and involving local people. The role of HWBs will be to:

- bring together the key decision makers across the NHS and local government;
- set a clear direction for the commissioning of health care, social care and public health;
- drive the integration of services across communities;
- improve local democratic accountability; and
- tackle inequalities in health.

At one level this is very clear but there remain many questions about how the HWB will work in practice, particularly given that there are other structures that have complementary, if not overlapping, responsibilities. Healthwatch East Sussex (HW) and the Clinical Commissioning Groups (CCG) have a remit to engage local people in decisions about their health care. The Health Overview and Scrutiny Committee (HOSC) in common with the HWB is described as ‘playing a positive strategic role in improving services and tackling health inequalities’. There are also questions about the relationship between the county, district and borough councils that are worth clarifying.

The answers to such questions are not simple – they will not be found in the committee constitutions or in national guidance – it is a matter for local interpretation about how the different bodies interpret their roles and relate to each other. It is important however, that there is some agreement about how the new system will work in practice and how the various bodies with responsibility for system oversight, strategy, scrutiny and public engagement will work individually and collectively. To help the system to do this we have designed a series of plausible but hypothetical ‘micro-cases’ that explore some of the potential questions about how relationships will work.

You will find four such micro-cases below that should provoke good coverage of the issues. These will be used as the basis for a facilitated discussion between participants and should help to surface some of the working assumptions about relationships and identify any points of tension or where further clarification is needed.

### **Case study 1 - Protecting local interests**

The Yellow CCG, in conjunction with East Sussex Healthcare NHS Trust is consulting on proposals to close the community hospital in Yellowtown. The facility is in a poor state of repair and the costs of redevelopment proved unaffordable. The proposal is part of a larger change programme that involves the expansion of two other community facilities in the area and investment in telemedicine. It will reduce the number of intermediate care beds but the consultation proposals stress that this is to enable more people to be cared

for at home. The CCG brought the draft proposals to the HWB where mixed views were expressed – a Councillor representing Yellowtown was strongly opposed to the proposals but the majority view was that the consultation should go ahead, with the council offering the space in one of its own facilities to enable local access to child health clinics in Yellowtown to be maintained.

The CCG decided they should also inform the HOSC. When the CCG Chair and Chief Operating Officer got to the meeting they found that the HOSC was well briefed about proposals and had heard all about the arguments expressed in the HWB. The HOSC Chair explained that she had already asked HW to make some informal inquiries in Yellowtown about how people felt about the Yellowtown Community Hospital. This took the CCG by surprise as they had a meeting booked with Healthwatch the following week to discuss how that organisation could help the CCG and the Trust in the public consultation.

### **Case study 2 - Big improvements**

The HWB has identified obesity prevention as one of its top priorities. It wants to increase levels of physical activity and the proportion of people eating healthily. As the HWB's attention turns to how this priority will be achieved a wide range of views emerge. Some politicians see lifestyle choices as a matter for individuals so think that the priority should be on raising public awareness of the problems that obesity causes. Others are concerned about food poverty and the ability of the poorest sections of the community to afford to eat healthily and argue for food and sport subsidies. The Director of Public Health has noted that as the evidence about what works in tackling obesity is 'equivocal' it is better to opt for a 'whole system response' rather than one specific intervention. They are concerned to stop any diversion of ring fenced public health money from initiatives that have a stronger evidence base such as the smoking cessation programme. Some members argue that as the healthcare sector is most likely to reap the benefits from obesity reduction (in terms of reduced demand) that the CCGs should be investing in more surgical and drug based treatments while Leisure and Community services argue that the NHS should be funding 'exercise on prescription' – an option that has been successful in other places. This could offset some of the price rises and service cuts that are being introduced as a result of the council's financial strategy. GP members have pointed to council failings to curb the number of fast food outlets selling unhealthy food. The Healthwatch representative is unable to comment as they will need to consult the community about their views. After a heated debate the Chair asks the members to come back to the next meeting with suggestions about how to resolve these differences in opinion.

### **Case study 3 - Tomorrow's generation**

The HWB identified the reduction in alcohol misuse as one of its top priorities. Some urban areas in the county have witnessed a steady increase in crime and disorder fuelled by drug and alcohol misuse in recent years. This has had a negative impact on local businesses not least because people are increasingly avoiding the town centres in the evenings. Two further factors behind the HWB's decision were calculations about the long term consequences of alcohol misuse for young people's health and longevity and the increasing pressure in accident and emergency services from people with these conditions.

At the last meeting of the HWB one of the GP members from Greentown, marched in with a stern look on his face. The latest round of cuts to county council services has been announced with youth services to be cut by a further 8% - on top of significant cuts in the previous two years. Moreover, the public health department is proposing to switch funding from the drug treatment programme to increase investment in preventing falls in older

people and in children – a further problem highlighted in this year's Joint Strategic Needs Assessment and also a priority for the HWB.

In contrast to many other parts of the county the Green District has a higher proportion of children and young people. The GP looks squarely at the Healthwatch representative and booms 'surely you can't be supporting these cuts if you are representing all sections of our community'. The GP goes on to argue that as the public health money was transferred from the NHS then NHS bodies such as CCGs should have a say in how the funds are used in their area.

#### **Case study 4 - Happy endings**

For the past two years the HWB and all of the CCGs have identified end of life care as significant priorities. A good deal of progress has been made but on one significant indicator – the proportion of people who end their days in their preferred place of death in the health and care system seems to be failing. The issue has been discussed by the HWB Board several times and some new initiatives have been put in place and although there is some anecdotal evidence that they are working they have yet to show quantitative results. The HOSC, pressured by a recent series of negative articles in the local press, has decided to look into the matter. The HOSC has asked Healthwatch to use its enter and view powers to review end of life plans and discharge arrangements at hospitals in the area and to look at practices in the nursing home sector where there are still a large number of people being admitted to hospital in the last days of their life.

#### **Case study 5 - Scrutinising performance**

After the publication of the Francis report on the events at Mid Staffordshire NHS Trust all NHS organisations were asked to put together action plans to address the recommendations. East Sussex Healthcare NHS Trust has put in a great deal of effort into its own action plan which has been scrutinised in detail by CCG commissioners and by the NHS Trust Development Authority. The HOSC, following its earlier interest in dignity in care has decided to scrutinise the plan and the Health and Wellbeing Board has decided to take an overview of all provider plans in relation to the Francis report to ensure that they are also aligned with the Health and Wellbeing Strategy. One of the District Councils has decided to look into the impact of GP commissioning on the care that local residents are getting and one strand of their inquiry is looking at changes to community services. The Chair of East Sussex Healthcare has raised concerns that they are being over-scrutinised and that this is impeding their ability to 'get on with the job of better patient care'.



## Annex 2 – List of participants

Designation	Name	Organisation
	Alison Smith	East Sussex County Council
Councillor	Angharad Davies	Rother District Council
	Barbara Deacon	East Sussex County Council
	Barry Atkins	East Sussex County Council
	Becky Shaw	East Sussex County Council
Councillor	Bill Bentley	East Sussex County Council
	Brenda Mason	Rother District Council
	Caroline Hodge	East Sussex County Council
	Claire Lee	East Sussex County Council
	Craig McEwan	Community Pharmacist
	Cynthia Lyons	East Sussex County Council
Councillor	David Elkin	East Sussex County Council
	David Onuoha	Boots UK/Public Health Systems Partnership
	Debbie Endersby	East Sussex County Council
	Diana Grice	East Sussex County Council
	Ian Fitzpatrick	Eastbourne Borough Council
	Ian Kedge	Lewes District Council
	Jane Rennie	East Sussex Healthcare NHS Trust
Dr	Jeremy Leach	Wealden District Council
Councillor	John Ungar	Eastbourne Borough Council
	Julie Eason	HOSC Member
	Julie Fitzgerald	East Sussex Community Voice
Councillor	Keith Glazier	East Sussex County Council
	Keith Hinkley	East Sussex County Council
	Laurie McMahon	Loop2
	Lisa Schrevel	East Sussex County Council
	Lynette Wells	East Sussex Healthcare NHS Trust
	Marie Casey	VCS nominee
	Paul Rideout	East Sussex County Council
	Richard Parker-Harding	Rother and Wealden Councils
Councillor	Rupert Simmons	East Sussex County Council
	Sarah Harvey	Loop2
	Sarah Pearce	Wave Leisure Trust Ltd
Councillor	Sylvia Tidy	East Sussex County Council
	Vanessa Taylor	East Sussex Local Pharmaceutical Committee



## Appendix 2

### East Sussex Health and Wellbeing Board - Terms of Reference

#### **Constitution**

The East Sussex Health and Wellbeing Board (the Board) includes representation from all bodies in East Sussex with major responsibilities for commissioning health services, public health and social care.

#### **Membership:**

- 4 Members of the County Council
- East Sussex County Council Director of Public Health
- East Sussex County Council Director of Adult Social Care
- East Sussex County Council Director of Children's Services
- One representative from each of the three Clinical Commissioning Groups (CCG)
- One representative of Healthwatch

The Board will be chaired by an elected Member of East Sussex County Council to be determined by the four nominated County Councillors.

A Deputy Chairman will be chosen from among the CCG group representatives.

The quorum for a Board meeting shall be half of the membership including at least one elected Member of the County Council and one representative of the CCGs.

In the event of equal votes the Chair will have the casting vote. All members of the Board will be entitled to vote.

#### **Observers**

In addition to the Members listed above, additional non-voting observers from relevant agencies will be invited attend to assist in achieving the Board's objectives. The invited observers with speaking rights are:

- An elected Member from each of the five Borough and District Councils within East Sussex (to avoid conflict of interest this must be different from the Health and Overview Scrutiny Committee Member)
- Chief Executive of East Sussex County Council
- Chief Executive of East Sussex Healthcare NHS Trust
- Chief Executive of Sussex Partnership NHS Foundation Trust
- A representative of the East Sussex Voluntary and Community Sector nominated by SpeakUp
- Sussex Police and Crime Commissioner
- A representative from Surrey and Sussex Area Team of the NHS Commissioning Board

#### **Role and Function**

- To provide strategic influence over commissioning decisions across health, public health and social care.
- To strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning decisions alongside commissioners across health and social care and provide a forum for challenge, discussion, and the involvement of local people.

- To bring together clinical commissioning groups and the council to develop a shared understanding of the health and wellbeing needs of the community.
- To drive local commissioning of health care, social care and public health and create a more effective and responsive local health and care system.

These functions will be delivered through the following activities:

#### Identify needs and priorities

1. Publish and refresh the East Sussex Joint Strategic Needs Assessment (JSNA), using a variety of tools, evidence and data including user experience, to ensure that the JSNA supports commissioning and policy decisions and identification of priorities.

#### Deliver and review the Health and Wellbeing Strategy

2. Review and update the Joint Health and Wellbeing Strategy regularly to ensure the identified priorities reflect the needs of East Sussex.
3. Ensure the CCGs and other commissioners contribute to the delivery of the Joint Health and Wellbeing Strategy and integrate its agreed objectives into their respective commissioning plans.

#### Ensure achievement of outcomes

4. Communicate and engage with local people about how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing.
5. Have oversight of the use of relevant public sector resources across a wide spectrum of services and interventions, with greater focus and integration across the outcomes spanning healthcare, social care and public health.
6. As part of the NHS Commissioning Board annual appraisal of CCGs within the County, the Board will report its views on the CCGs contribution to the delivery of the Joint Health and Wellbeing Strategy.

#### Reporting

7. Propose recommendations regarding the work of the Health and Wellbeing Board to:
  - East Sussex County Council; and
  - East Sussex CCGs.
8. Direct issues to and receive reports from the appropriate ESCC Scrutiny Committees.
9. Provide an annual report to a meeting of the full ESCC on the work and achievements of the Board.