

Report to: Governance Committee

Date of meeting: 29 September 2022

By: Assistant Chief Executive

Title: Amendment to Constitution – Health and Wellbeing Board Terms of Reference

Purpose: To seek approval to amend the Terms of Reference of the Health and Wellbeing Board to reflect changes in membership of NHS England and NHS provider trusts

RECOMMENDATION:

To recommend the County Council approve the revised Health and Wellbeing Board Terms of Reference set out at appendix 1 to the report and that the Constitution be amended accordingly.

1 Background

1.1 The Health and Social Care Act 2012 established Health and Wellbeing Boards as statutory committees of all upper tier local authorities in England and prescribed the Boards' functions and membership.

1.2 Section 197 of the Act requires a Health and Wellbeing Board to have a member representing NHS England when it considers certain matters, including preparing the Joint Strategic Needs and Assets Assessment (JSNAA) and local health and wellbeing strategy, and considering a matter that relates to the exercise or proposed exercise of the commissioning functions of NHS England. S.197(5) permits that person to be someone who is not a member or employee of NHS England, with the agreement of the Health and Wellbeing Board.

1.3 The Health and Care Act 2022 established Integrated Care Boards (ICBs) across England on a statutory basis from 1 July 2022, replacing Clinical Commissioning Groups (CCG) as the local NHS commissioning organisations. ICBs form part of local Integrated Care Systems bringing together ICBs, upper tier local authorities and NHS providers, primary care providers and the voluntary, community and social enterprise sector.

1.4 ICBs cover a wider footprint than the predecessor organisations; NHS Sussex is the ICB covering East Sussex, West Sussex and Brighton & Hove and replaces three CCGs. Most local commissioning within ICBs will be undertaken at 'place' level, however, which corresponds to the three local authority boundaries.

1.5 NHS Sussex has also taken on primary care commissioning functions from NHS England – including General Practice, community ophthalmology, pharmacy and dentistry – which are planned to be commissioned at place level.

1.6 The Health and Wellbeing Board has a role to provide whole system leadership and strategic influence over commissioning in East Sussex, including ensuring commissioners have regard to and contribute to the delivery of the Joint Local Health and Wellbeing Strategy. Under the new commissioning arrangements, HWBs in Sussex will focus their role on overseeing place-based commissioning.

1.7 The Chief Executives of three NHS provider trusts are currently members of the East Sussex Health and Wellbeing Board – East Sussex Healthcare NHS Trust (ESHT), Sussex Partnership NHS Foundation Trust and Sussex Community NHS Foundation Trust. Under the local ICS arrangements providers will work more closely together and with commissioners through local place-based partnerships.

2 Supporting information

2.1 Given the new commissioning structure and transfer of primary care commissioning functions from NHS England to the ICB, NHS England is unlikely to undertake significant commissioning activity at a 'place' level in the future. Consequently, NHS England intends to withdraw membership of the Health and Wellbeing Board, and NHS Sussex proposes that its three members represent NHS England on the Health and Wellbeing Board to fulfil the requirements of the 2012 Act. Similar arrangements are already in place at a number of other Health and Wellbeing Boards locally and nationally given the practical difficulties of NHS England attending multiple local authority Boards.

2.2 In addition, in view of the creation of the ICB and the three underpinning 'place' based partnerships in East Sussex, Brighton & Hove and West Sussex bringing local commissioners and providers together as part of the wider ICS, it is proposed that one NHS provider trust Chief Executive represents all local providers on each of the three Health and Wellbeing Boards in Sussex. For East Sussex this is proposed to be the Chief Executive of ESHT.

2.3 In light of the requests from NHS England and the three provider trusts to rationalise their membership of the HWB in order to reflect the new commissioning arrangements under the 2022 Act, there is a need to update the Terms of Reference of the Health and Wellbeing Board to reflect the amended membership.

2.4 Proposed changes to the existing Terms of Reference are shown at appendix 1. In summary these comprise:

- Removal of NHS England, Sussex Partnership NHS Foundation Trust and Sussex Community NHS Foundation Trust as members of the Board;
- Addition of a notification that NHS Sussex will represent NHS England on the Board;
- Addition of a notification that ESHT will provide representation on the Board for all NHS provider trusts delivering services in East Sussex; and
- Removal of Maidstone and Tunbridge Wells NHS Trust and University Hospitals Sussex NHS Foundation Trust as invited observers.

2.5 The revised terms of reference will reduce the number of members on the HWB from 17 to 14 and invited observers from 9 to 7. The quorum will remain as half the membership (now 7 members) including at least one elected Member of the County Council and one representative of NHS Sussex.

3 Conclusion and reasons for recommendation

3.1 The proposed changes to the Health and Wellbeing Board terms of reference will more closely align the membership of the Board with new commissioning arrangements within the Integrated Care System.

3.2 The Governance Committee is recommended to recommend the County Council to agree to the revised Terms of Reference set out at appendix 1 to the report and that the Constitution be amended accordingly.

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Local Member: All

Background Documents: None