

FRAMEWORK FOR SUCCESS

Report By: Chief Executive, Herefordshire Council

Purpose

1. The purpose of this paper is to address the important issue of the future governance of the Public Service Trust.

Background

2. As will be covered elsewhere in the papers for the Health Scrutiny Committee, the issue of governance of the Public Service Trust is an issue that has yet to be resolved. It is important, however, to remind Health Scrutiny that both the Council, the Primary Care Trust (PCT) and the Health Scrutiny Committee were all adamant in their support for a single coterminous Primary Care Trust for Herefordshire when consulted on the reconfiguration of PCTs in the early part of 2006. There was a clear understanding on the part of all the parties that that would involve much closer working between the primary care trust and the Council. Indeed, both the Primary Care Trust and the Council had to present to what was then the Strategic Health Authority (South) to convince the Strategic Health Authority of the viability of a single Primary Care Trust for Herefordshire through what was termed at the time a "Fitness for Purpose" test.

The Challenges

3. There is a theoretical challenge to developing governance arrangements across two organisations that are differently constituted. It is important, however, to keep that challenge in perspective. The premise from which this paper starts is that those governance issues can be resolved. Indeed, it is self-evident that if the United Nations and the EEC can be made to function in governance terms then we must be capable locally of resolving what are admittedly quite complex governance issues locally. It is worthwhile analysing the respective governance arrangements of the Council and the PCT.

The Council

4. The Council is governed by 58 Councillors who are directly elected on a geographic basis from across the County. Under the Local Government Act 2000, the Council operates on a Leader and Cabinet model which means that the Council is managed by an executive which consists of the Leader and eight Cabinet portfolio holders. The work of the executive is subject to scrutiny through a Strategic Monitoring Committee and four Scrutiny Committees. In addition, there is a statutory Health Scrutiny Committee for whom this paper has been prepared. The Leader is appointed by Council and it therefore follows that both the Leader and Cabinet can be removed by Council. The Council is also obliged to appoint officers to a number of statutory posts. Those posts are the Head of Paid Service (Chief Executive), the Section 151 Officer (Director of Resources), the Monitoring Officer (Head of Legal and Democratic Services), Director of Children's Services and, as from early 2008, a Director of Adult Services. Within those roles, there are specific rights for the officers to formally advise Cabinet. In practice, those roles are rarely exercised.

Primary Care Trust

5. The Primary Care Trust functions through a Board which consists of a Chairperson and six Non-Executive Directors (NEDs). The Board is supported by five Executive Directors who serve as members of the Board. The Chairman and Non-Executive Directors are subject to a public appointments process under “Nolan principles” and receive an allowance. The Executive Directors are salaried employees. Despite those apparent differences, both bodies function in quite similar ways. In practice, most issues are resolved by discussion and consensus and it is rare for decisions to be put to the vote. Although the salaried officials of the PCT have voting rights within the Board, it is again rare for them to exercise those rights to secure a decision. In a similar way, although the statutory officers of the Council have the right to influence and in certain circumstances prevent decisions, it is absolutely exceptional for those powers to be exercised.

Practical Considerations

6. The Council is required to prepare and publish a Community Strategy for the area. The PCT along with other public sector partners, the business sector and the voluntary sector is required to participate in the preparation of that strategy. That strategy is reflected in the corporate plans of both the Council and the PCT. The Local Government White Paper proposed the imposition of a duty on partners to co-operate and that duty is in the course of being made statutory. There are many different governance models that could be employed in the formation of a Public Service Trust. What is clear is that the statutory obligations of both the PCT and the Council will continue to rest with those statutory bodies. Both bodies do, however, have extensive rights to delegate their functions to other joint bodies or to officers. There are a wide range of bodies to which both the Council and the PCT already make appointments. A number of these are statutory or arise from statutory or ministerial direction. They include the Herefordshire Partnership, the Health and Well Being Partnership, the Valuing People Partnership, the Children and Young People’s Partnership (from April 2008, the Children’s Trust Board), Section 31/75 Agreements – Partnership Boards and Community Safety and Drugs Partnership. There is, therefore, already a framework for joint governance.
7. One of the early issues for consideration will be how far the Council and the PCT wish to continue to work through those existing arrangements and/or how far they want to go in the initial stages in establishing a different and more streamlined governance structure. It will be perfectly feasible in the short-term to oversee the work of the Public Service Trust through an Executive Board which typically would consist of a number of Executive representatives from the Council and the PCT together with the Chief Executive of the Public Service Trust. Care would have to be taken to ensure that the Public Service Trust continued to maintain engagement with customers and patients, the voluntary sector and other user groups. Those arrangements would need to be incorporated into any governance model.
8. As with any organisation, it is likely that the governance arrangements would be developed over a period of time and one of the issues for the parties in relation to the governance arrangements would be how far they wish to progress initially. It would be perfectly possible in governance terms to establish the Public Service Trust on the basis of a managerial delegation alone with managerial accountability back to the Council and the PCT. At the other extreme, governance could be integrated entirely around the principal functions of the Public Service Trust. That might see an alignment of Cabinet portfolios with specific responsibilities for Non-Executive

Directors of the PCT. It would be for the parties to determine as part of the Partnership document how far they want to develop the model as a first phase although it is realistic to anticipate that both parties are likely to favour a phased approach to the integration of governance.

Conclusion

9. What this paper attempts to do is to address the issue of the deliverability of governance arrangements rather than to put forward a preferred model which will properly be constituted as part of the Partnership Document if the proposal for a Public Service Trust is approved in principal following the consultation.
10. A copy of the conceptual paper prepared by the Integrated Governance Working Group and presented to a seminar attended by Cabinet and the PCT Board is attached as Annex 1.