



REPORT TO COUNCIL

ESTABLISHMENT OF A JOINT HEALTH OVERVIEW & SCRUTINY COMMITTEE FOR SOUTH WEST LONDON AND SURREY

KEY ISSUE/DECISION:

For Surrey County Council, in partnership with six other Local authorities, to establish a Joint Health Overview & Scrutiny Committee for South West London and Surrey for a four year term.

That Surrey County Council's health scrutiny committee provides two Members to serve on the Joint Committee.

BACKGROUND:

1 Introduction

- 1.1 Officers responsible for health scrutiny across South West London and Surrey County Council have recommended the continuation of a Standing Joint Health Overview and Scrutiny Committee, with responsibility for responding to consultations on substantial service change affecting multiple authorities across the area. This has proved to be a useful way to obviate the need to go through a separate decision-making process each time a consultation requiring the establishment of a Joint Health Overview and Scrutiny Committee is initiated, enabling local authorities to respond more rapidly and saving officer and Member time.
- 1.2 The first task of this Joint Committee will be to review and participate in the public consultation on the future of the Epsom & St. Helier University Hospitals NHS Trust (ESTH).

2 Substantial variation at Epsom and St. Helier University Hospitals NHS Trust

- 2.2 The Epsom & St. Helier University Hospitals NHS Trust (ESTH) has been engaging with residents and patients on changes to its estates and clinical model from 2020. It will require significant capital investment from the NHS to renew its ageing hospitals.
- 2.3 The developments proposed by the Trust will constitute a substantial development to or variation of service provision and all parties – local health overview and scrutiny committees and the Trust – are in agreement with this classification. A substantial development or variation is locally defined but the key feature is that there is a major change to services experienced by patients and future patients. This could include

changes to the timings or location of service resulting in increased travel time or costs to small number of patients or the complete change to local services due to a major reconfiguration, for example.

- 2.4 The Trust is now developing a formal public consultation. As a key stakeholder and a statutory consultee Surrey County Council's health scrutiny function may respond to the consultation. As the consultation affects residents in neighbouring Authorities regulation states that these Authorities must form a Joint Health Overview & Scrutiny Committee to review and respond to the consultation.

3 Resulting action required under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

- 3.1 Under Regulation 23, NHS England, Clinical Commissioning Groups, public and independent sector providers of NHS services must consult with the local authority about any proposals for a substantial development or variation of the health service in the authority's area. ESTH has been communicating with the Adults and Health Select Committee for some time.

- 3.2 Regulation 30 requires local authorities to appoint joint committees where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about substantial reconfiguration proposals.

In such circumstances, Regulation 30 sets out the following requirements:

- Only the joint committee may respond to the consultation (i.e. rather than each individual local authority responding separately).
- Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal.
- Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service provider to attend before it to answer questions in connection with the consultation.

- 3.3 These restrictions do not apply to referrals to the Secretary of State. Local authorities may choose to delegate their power of referral to the mandatory joint committee but they need not do so. If the local authority has delegated this power, then they may not subsequently exercise the power of referral. If they do not delegate the power, they may make such referrals.

- 3.4 Local authorities may report to the Secretary of State in writing if:

- It is not satisfied with the adequacy of content of the consultation
- It is not satisfied that sufficient time has been allowed for consultation
- It considers that the proposal would not be in the interests of the health service in its area
- It has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate

4 Governance

- 4.1 The full Terms of Reference and Rules of Procedure for the Joint Committee are listed as Annex A to this report.

5 Financial and value for money implications

- 5.1 Consideration should be given to the cost of the provision of democratic support. It is envisaged that this provision will be contained within existing resources and therefore will not be an additional cost to the Council. Responsibility will be shared on a rotating basis between the constituent Authorities.

6 Consultation

- 6.1 The Chairman and Vice-Chairman of the Adults and Health Select Committee have been consulted on the proposal and have offered full support for the establishment of the joint committee.

RECOMMENDATIONS:

1. The County Council agrees to the establishment of the Joint Health Overview & Scrutiny Committee for South West London and Surrey with effect from 22 May 2018 on a four year term.
2. The County Council be represented by two Members of its health scrutiny committee, including its Chairman on the Joint Committee.
3. The Joint Committee shall, where appropriate, discharge the power of referral to the Secretary of State in cases where it has been the body consulted by the NHS.
4. Any consequential amendments are made to the Council's Constitution as required.

REASONS FOR RECOMMENDATIONS:

- 1 To ensure readiness to undertake review of proposals and respond to the Trust's public consultation in 2019.
- 2 To ensure robust scrutiny of the NHS Trust's plans and consultation process.
- 3 To strengthen Surrey residents' voices in the consultation and ensure their interests are considered by decision makers.

WHAT HAPPENS NEXT:

- Implementation of the recommendation with two Members from the Council's health scrutiny committee including the Chairman taking positions on the Joint Committee.
- A first meeting of the Committee is provisionally planned for June 2018.

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Sources/background papers:

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

Epsom and St. Helier University Hospitals NHS Trust, *Epsom and St. Helier 2020-2030*, available at: <https://www.epsom-sthelier.nhs.uk/epsom-and-st-helier-2020-2030>

Establishment of a Joint Health Overview and Scrutiny Committee for South West London and Surrey

The draft terms of reference and rules of procedure are attached below:

Points to note are:

- There will be two members of the Committee for each local authority represented, appointed in accordance with local procedures. Local authorities are also encouraged to nominate substitutes to attend when their primary representatives are unable to.
- The Committee will have the power to establish sub-committees, and much of the work in relation to specific consultation will be undertaken in these sub-committees. The members of a sub-committee may be members of the main committee, but constituent local authorities may also nominate another representative to serve on a specific sub-committee.
- Where a consultation affects some, but not all, of the constituent areas voting membership of the relevant sub-committee will be restricted to the authorities directly affected. Thus, for example, the sub-committee responding to consultation on the Mental Health Trust's estates strategy would not include Croydon as a voting member.
- There is no minimum frequency of meetings of the Committee, and when there are no current consultations there will be no need for the committee to meet.
- The life of the Committee will be for a maximum of four years. Constituent areas will nominate members annually, and there will be an annual election for the Chair and Vice-Chair of the Committee. The Committee can choose to reconvene after four years should it wish to.

First meeting of the Committee

The first meeting of the Standing Joint Health Overview and Scrutiny Committee is due to take place on May/June 2018 at Merton Civic Centre. Secretarial services for this meeting will be provided by the London Borough of Merton. The initial meeting will consider:

- Agreement of the terms of reference and rules of procedure;
- Election of a Chair and Vice-Chair;
- Epsom and St Helier Strategic Outline Case and Commissioners response.
- Establishment of a sub-committee to consider and respond to the Acute Sustainability Programme.

For decision

Members are asked to nominate two members to the South West London and Surrey Joint Health Overview and Scrutiny Committee and two alternates.

**JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE
SOUTH WEST LONDON AND SURREY**

TERMS OF REFERENCE

1.1 The South West London and Surrey Joint Health Overview and Scrutiny Committee is established by the Local Authorities of **London Borough of Croydon, London Borough of Merton, London Borough of Richmond upon Thames, Surrey County Council, London Borough of Sutton, London Borough of Wandsworth**, and the **Royal Borough of Kingston upon Thames (constituent areas)** in accordance with s.245 of the NHS Act 2006 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

1.2 It will be a standing Joint Overview and Scrutiny Committee or a sub-committee thereof which will undertake scrutiny activity in response to a particular reconfiguration proposal or strategic issue affecting some, or all of the constituent areas.

1.3 The length of time a specific matter / proposal will be scrutinised for will be determined by the Joint Committee or Sub Committee.

1.4 The purpose of the Standing Joint Committee is to act as a full committee or commission sub-committees to consider the following matters and carry out detailed scrutiny work as below:

(a) To engage with Providers and Commissioners on strategic sector wide *proposals* in respect of the *configuration* of health services affecting some or all of the area of Croydon, Merton, Richmond upon Thames, Surrey County Council, Sutton, Wandsworth, and the Royal Borough of Kingston upon Thames (constituent area).

(b) Scrutinise and respond to the consultation process (including stakeholder engagement) and final decision in respect of any reconfiguration proposals affecting some, or all of the constituent areas.

(c) Scrutinise in particular, the adequacy of any consultation process in respect of any reconfiguration proposals (including content or time allowed) and provide reasons for any view reached.

(d) Consider whether the proposal is in the best interests of the health service across the affected area.

(e) Consider as part of its scrutiny work, the potential impact of proposed options on residents of the reconfiguration area, whether proposals will deliver sustainable service change and the impact on any existing or potential health inequalities.

(f) Assess the degree to which any proposals scrutinised will deliver sustainable service improvement and deliver improved patient outcomes.

(g) Agree whether to use the joint powers of the local authorities to refer either the consultation or final decision in respect of any proposal for reconfiguration to the Secretary of State for Health.

(h) As appropriate, review the formal response of the NHS to the Committees consultation response.”

1.5. The Joint Committee will consist of 2 Councillors nominated by each of the constituent areas and appointed in accordance with local procedure rules. Each Council can appoint named substitutes in line with their local practices.

1.6 Appointments to the Joint Committee will be made annually by each constituent area with in-year changes in membership confirmed by the relevant authority as soon as they know.

1.7 A Chairman and Vice Chairman of the Joint Committee will be elected by the Committee at its first meeting for a period of one year and annually thereafter.

1.8 The life of the Joint Committee will be for a maximum of four years from its formation in May 2018.

1.9 For each specific piece of scrutiny work undertaken relating to consultations on reconfiguration or substantial variation proposals affecting all or some of the constituent areas, the Joint Committee will either choose to act as a full Committee or can agree to commission a sub-committee to undertake the detailed work and define its terms of reference and timescales. This will provide for flexibility and best use of resource by the Joint Committee.

1.10 In determining how a matter will be scrutinised, the Joint Committee can choose to retain decision making power or delegate it to a sub-committee.

1.11 The overall size of each sub-committee will be determined by the main Committee and must include a minimum of 1 representative per affected constituent area

1.12 Where a proposal for reconfiguration or substantial variation covers some but not all of the constituent areas, in establishing a sub-committee, formal membership will only include those affected constituent areas. Non affected constituent areas will be able to nominate members who can act as 'observers' but will be non-voting.

1.13 The Committee and any sub-Committees will form and hold public meetings, unless the public is excluded by resolution under section 100a (4) Local Government Act 1972 / 2000, in accordance with a timetable agreed upon by all constituent areas and subject to the statutory public meeting notice period.

**SOUTH WEST LONDON AND SURREY JOINT HEALTH OVERVIEW AND
SCRUTINY COMMITTEE (JHOSC)**

RULES OF PROCEDURE

1. Membership of Committee and Sub-Committees

- 1.1 The London Boroughs of Croydon, Merton, Richmond upon Thames, Sutton, Wandsworth and the Royal Borough of Kingston upon Thames and Surrey County Council will each nominate, 2 members to the JHOSC, appointed in accordance with local procedure rules.
- 1.2 Appointments will be reconfirmed annually by each relevant authority.
- 1.3 Individual authorities may change appointees in accordance with the rules for the original nomination.
- 1.4 Individual authorities will be strongly encouraged to nominate substitutes in accordance with local practice.
- 1.5 In commissioning Sub-Committees, membership will be confirmed by the JHOSC and can be drawn from the main Committee or to enable use of local expertise and skill, from non-Executive members of an affected constituent area.
- 1.6 The membership of a sub-committee will include at least one member from each affected constituent areas. An affected constituent area is a council area where the proposals will impact on residents. Non affected areas can appoint 'observer' members to sub-committees but they will be non-voting.
- 1.7 The JHOSC, may as appropriate review its membership to include authorities outside the South West London area whom are equally affected by a proposal for reconfiguration or substantial variation who can be appointed to serve as members of relevant sub-committees.

2. Chairman

- 2.1 The JHOSC will elect the Chairman and Vice Chairman at the first formal meeting. A vote will be taken (by show of hands) and the results will be collated by the supporting Officer.
- 2.2 The appointments of Chairman and Vice Chairman will be reconfirmed annually.
- 2.3 If the JHOSC wishes to, or is required to change the appointed Chairman or Vice Chairman, an agenda item should be requested supported by four of the seven constituent areas following which the appointments will be put to a vote.
- 2.4 Where a sub-committee is commissioned, at its first meeting a Chairman and Vice-Chairman will be appointed for the life of the sub-committee.

3. Substitutions

- 3.1 Named substitutes may attend Committee meetings and sub-committee meetings in lieu of nominated members. Continuity of attendance is strongly encouraged.

- 3.2 It will be the responsibility of individual committee members and their local authorities to arrange substitutions and to ensure the supporting officer is informed of any changes prior to the meeting.
- 3.3 Where a named substitute is attending the meeting, it will be the responsibility of the nominated member to brief them in advance of the meeting.

4. Quorum

- 4.1 The quorum of a meeting of the JHOSC will be the presence of one member from any five of the seven participating constituent areas.
- 4.2 The quorum of a meeting of a Sub Committee of the JHOSC will be three quarters of the total membership of the sub-committee to include a minimum of two members.

5. Voting

- 5.1 Members of the JHOSC and its sub Committees should endeavour to reach a consensus of views and produce a single final report, agreed by consensus and reflecting the views of all the local authority committees involved.
- 5.2 In the event that a vote is required, each member present will have one vote. In the event of there being an equality of votes the Chairman of the JHOSC or its sub-committee will have the casting vote.

6. JHOSC Role, Powers and Function

- 6.1 The JHOSC will have the same statutory scrutiny powers as an individual health overview and scrutiny committee that is:
- accessing information requested
 - requiring members, officers or partners to attend and answer questions
 - Referral to the Secretary of State for Health if the Committee is of the opinion that the consultation has been inadequate or the proposals are not 'in the interests' of the NHS
- 6.2 The JHOSC can choose to retain the powers of referral to the Secretary of State for Health for a particular scrutiny matter or delegate them to an established sub-committee.

7. Support

- 7.1 The lead governance and administrative support for the JHOSC will be provided by constituent areas on an annual rotating basis.
- 7.2 The lead scrutiny support for sub-committees will be provided by constituent areas on a per issue basis to be agreed by the sub-committee.
- 7.3 Meetings of the JHOSC and its sub-committees will be rotated between participating areas.

7.4 The host constituent area for each meeting of the JHOSC will be responsible for arranging appropriate meeting rooms and ensuring that refreshments are available.

7.5 Each constituent area will identify a key point of contact for all arrangements and Statutory Scrutiny Officers will be kept abreast of arrangements for the JHOSC.

8. Meetings

8.1 Meetings of the JHOSC and its sub-committees will be held in public unless the public is excluded by resolution under section 100a (4) Local Government Act 1972 / 2000 and will take place at venues in one of the seven constituent areas.

8.2 Meetings will not last longer than 3 hours from commencement, unless agreed by majority vote at the meeting.

9. Agenda

9.1 The agenda will be drafted by the officers supporting the JHOSC or its sub-committees and agreed by the appropriate Chairman. The officer will send, by email, the agenda to all members of the JHOSC, the Statutory Scrutiny Officers and their support officers.

9.2 It will then be the responsibility of each borough to:

- publish official notice of the meeting
- put the agenda on public deposit
- make the agenda available on their Council website; and
- make copies of the agenda papers available locally to other Members and officers of that Authority and stakeholder groups as they feel appropriate.

10. Local Overview and Scrutiny Committees

10.1 The JHOSC or its sub-committees will invite participating constituent areas health overview and scrutiny committees and other partners to make known their views on the review being conducted.

10.2 The JHOSC or its sub-committees will consider those views in making its conclusions and comments on the proposals outlined or reviews.

10.3 Individual Overview and Scrutiny Committees will make representations to any NHS Body where a consensus at the JHOSC cannot be reached”.

11. Representations

11.1 The JHOSC or its sub-committees will identify and invite witnesses to address the committee and may wish to undertake consultation with a range of stakeholders.

11.2 As far as practically possible the committee or sub-committee will consider any written representations from individual members of the public and interest groups that represent geographical areas in South West London and Surrey that are contained within one of the participating local authority areas.

- 11.3 The main Committee and any established sub-committees will consider up to 3 verbal representations per agenda item from individual members of the public and interest groups that represent geographical areas in South West London and Surrey that are contained within one of the participating local authority areas. Individuals must register to speak before 12pm on the day before the meeting takes place and will be given three minutes to make their representations to the committee.
- 11.4 The Chairman or any committee or sub-committee will have the discretion to accept more or late speakers where s/he feels it is appropriate.

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