



## ADULT SERVICES AND HEALTH COMMISSION 19 January 2008

Report of the Director of Corporate and Adult Social Services

### Joint East Midlands Health Scrutiny Committee Protocols

#### RECOMMENDATION

- 1.1 To consider and agree protocols for the Joint East Midlands Health Scrutiny Committee.

#### SUPPORTING INFORMATION

- 2.1 Where a local NHS body consults more than one overview and scrutiny committee pursuant to regulation 4 of the Regulations on any proposal it has under consideration for a substantial development of the health service or a substantial variation in the provision of such service, the local authorities of those overview and scrutiny committees shall appoint a joint overview and scrutiny committee for the purposes of the consultation and only that joint overview and scrutiny committee may:
  - (a) Make comments on the proposal consulted on to the local NHS body under regulation 4(4) of the Regulations;
  - (b) Require the local NHS body to provide information about the proposal under regulation 5 of the Regulations; or
  - (c) Require an officer of the local NHS body to attend before it under regulation 6 of the Regulations to answer such questions as appear to it to be necessary for the discharge of its functions in connection with the consultation.
- 2.2 Any authority that decides not to take part in the joint scrutiny committee will not be able to exercise these powers.
- 2.3 In order to be able to respond quickly to such proposals when they arise in our region we have been working with other authorities to establish the Joint East Midlands Health Scrutiny Committee and have put together draft terms of reference shown in Appendix 2 to guide the process. Establishing protocols ahead of any consultation initiated by health bodies should save the committee valuable time which can be better used to assess the proposals.

- 2.4 The Full Council at its July 2008 meeting delegated powers to the Adult Services and Health Commission to agree the Terms of Reference for the Joint East Midlands Health Overview and Scrutiny Committee. Members are asked to consider and approve the attached terms of reference for the Joint Health Scrutiny Committee.

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| <b>Background papers:</b>            | None                                                                                                                    |
| <b>List of appendices:</b>           | Appendix 1 – Implications<br>Appendix 2 – Draft Terms of Reference of the Joint East Midlands Health Scrutiny Committee |

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| <b>IMPLICATIONS</b> |
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**Financial**

1. None arising from this report.

**Legal**

- 2.1 The Health and Social Care Act 2001 gives health scrutiny committees powers to review any matter relating to the planning, provision and operation of health services.
- 2.2 The Government issued a directive in July 2003 requiring local authorities to appoint joint overview and scrutiny committees where a local NHS body consults more than one Overview and Scrutiny Committee on proposals for substantial development or variation in the provision of health service.
- 2.3 In July 2008 the Council appointed the Chair and Vice Chair of the Adult Services and Health Commission to the Joint East Midlands Health Scrutiny Committee and authorised the Commission to agree the protocols governing the workings of the Committee.

**Personnel**

3. None arising from this report.

**Equalities impact**

4. Effective scrutiny benefits all Derby people.

**Corporate Priorities**

5. This report links with Council's priority for 2007-10 to help us all to be healthy and active.

### **East Midlands Health Overview and Scrutiny Committee**

**(NHS Statutory consultations on substantial variations/developments of regional health services)**

#### **TERMS OF REFERENCE**

This East Midlands Health Overview and Scrutiny Committee is constituted in accordance with sections 7 and 8 of the Health and Social Care Act 2001 and associated regulations and guidance to act as the statutory consultee for NHS public consultation on substantial variations/developments across the geographical area covered by the local authorities of Derby, Derbyshire, Leicester, Leicestershire, Lincolnshire, Northamptonshire, Nottingham, Nottinghamshire and Rutland.

This Committee will be convened when an NHS body seeks to consult a joint overview and scrutiny committee on proposals across these areas. Consideration of substantial variations/developments within any of these geographical areas remains the responsibility of the relevant local authority. The NHS Body must notify each local authority with responsibility for social care on the need to convene the joint overview and scrutiny committee.

This Committee will be constituted for a limited time period, ending when the NHS formally reports its decision on the consultation outcome to the Committee, unless the Committee wishes to refer the service reconfiguration to the Secretary of State, in which case it will remain constituted until such a time as the matter is brought to a close.

Its terms of reference are:

1. To undertake the functions of a statutory Joint health overview and scrutiny committee in accordance with sections 7 and 8 of the Health and Social Care Act 2001 and associated regulations and guidance.

2. To consider and respond to NHS proposals for the reconfiguration of Health Services delivered across the East Midlands.
3. To scrutinise the consultation process, by considering:
  - (i) whether, as a statutory body, the OSC has been properly consulted within the consultation process;
  - (ii) whether, in developing the proposals for service changes, the health body concerned has taken into account the public interest through appropriate patient and public involvement and consultation;
  - (iii) whether, a proposal for changes is in the interests of the local health service.

### **Membership**

The following local authorities will be invited to nominate two Members who will form the Membership of the Joint Committee:-

Derby City Council

Derbyshire County Council

Leicester City Council

Leicestershire County Council

Lincolnshire County Council

Northamptonshire County Council

Nottingham City Council

Nottinghamshire County Council

Rutland County Council

Members will be appointed in accordance with the conventions for nomination of their own council.

The appointment of Chairs and Vice Chairs of health OSCs (or equivalent) is encouraged.

Participation in the Joint Committee is a matter for individual Councils and should be considered on a case by case basis. Local Authorities choosing

not to participate should note the implications of the Direction issues by the Secretary of State for Health - 17 July 2003.

## **PROCEDURES**

### **Chair and Vice-Chair**

1. The Joint Committee will appoint a Chair and Vice Chair at the first meeting of each consultation review. The chair and vice chair should be members of different participating authorities preferably from neutral authorities.

### **Substitutions**

2. Substitutes may attend Committee meetings in lieu of nominated members. Continuity of attendance throughout the review is strongly encouraged however.
3. It will be the responsibility of individual committee members and their local authorities to arrange substitutions and to ensure that the lead authority is informed of any changes prior to the meeting.
4. Where a substitute is attending the meeting, it will be the responsibility of the nominated member to brief them in advance of the meeting.
5. Members and substitute Members should not sit on the executive of a local authority included in the membership of the joint committee

### **Quorum**

6. The quorum of the meeting of the Joint Committee will be 5 Members.

### **Voting**

7. Members of the Joint Committee should endeavour to reach a consensus of views. 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 Chair of the meeting will have the casting vote.

8. On completion of the scrutiny consultation review by the Joint Committee, it shall produce a response, agreed by consensus. Where consensus can not be reached the views of all the local authority committees involved should be reflected in the response.

### **Meetings**

9. Meetings of the Joint Committee will normally be held in public and the consulting NHS body may be asked to provide a suitable venue. There may be occasions on which the Joint Committee may need to meet witnesses or hold visits outside of the formal Committee meeting setting.
10. The Joint Committee may meet informally to discuss and draft its response including any recommendations.

### **Local Overview and Scrutiny Committees**

11. The Joint Committee will invite local health overview and scrutiny committees to make known their views on the proposals contained within the consultation.
12. The Joint Committee will consider those views in making its conclusions and comments on the proposals being consulted on.
13. Local health overview and scrutiny committees will be encouraged to gather views from local NHS bodies and interested parties and advise the Joint Committee of instances where the Joint Committee should take evidence.
14. The Joint Committee will not be deemed to replace any local health overview and scrutiny committee functions, rights or duties – except when a statutory joint committee is requested to respond to a consultation on a substantial variation/development of services across the region.

## **Communication**

15. The Joint Committee will establish clear lines of communication between the NHS, participating local authorities and itself. All formal correspondence between the Committee, local authorities and the NHS on this matter will be co-ordinated by a lead officer.
16. For each request to the Joint Committee, a local authority will be identified to provide communication support as required.

## **Representations**

17. The Joint Committee will identify and invite witnesses to address the committee and may wish to undertake consultation with a range of stakeholders.
18. The Joint Committee may choose to refer any written or verbal submissions from interest groups that represent geographical areas that are contained within one local authority area to the relevant local authority overview and scrutiny committee who may wish to receive those submissions.
19. The Joint Committee will specifically request that the consulting NHS body consider reviews undertaken by local Overview and Scrutiny Committees. Summaries of the key points from these submissions will be appended to the Joint Committee's final submission.

## **Administrative Support**

20. Administrative and scrutiny support will be provided by the local authorities working together. A lead authority should be identified for each consultation review request to consult the Joint Committee.