

Council

18 July 2017

Proposal to establish arrangements for a Joint Health Overview and Scrutiny Committee with Coventry City Council

Recommendations

Council is recommended to:

1. Approve the proposed approach for the establishment of a Joint Health Overview and Scrutiny Committee with Coventry City Council as set out in the report
2. Approve the terms of reference for the Joint Health Overview and Scrutiny Committee at Appendix 1.
3. Retain the County Council's powers to make referrals to the Secretary of State in prescribed circumstances and not delegate these to the Joint Health Overview and Scrutiny Committee.
4. Appoint Councillors xxx – 5 names: 4 Conservative; 1 Labour as Warwickshire County Council's representatives on the Joint Health Overview and Scrutiny Committee for 2017/18, with subsequent appointments to be made at the Council's Annual Meetings.
5. Authorises the Joint Managing Director (Resources) in consultation with the Chair of the Adult Social Care and Health Overview and Scrutiny Committee to finalise the Terms of Reference with Coventry City Council and to take any necessary steps to implement the arrangements.

1.0 Key Issues

- 1.1 Health Services are required to consult a local authority's Health Overview and Scrutiny Committee about any proposals they have for a substantial development or variation in the provision of health services in their area. When these substantial developments or variations affect a geographical area that covers more than one local authority, they are required to consult a Joint Health Overview and Scrutiny Committee.
- 1.2 Increasingly, proposals from the National Health Service are affecting larger geographical areas and this report proposes arrangements for Warwickshire County Council to establish a Joint Health Overview and Scrutiny Committee with Coventry City Council in line with the provisions set out in legislation and guidance.

2.0 Context

- 2.1 Legislation provides for local authorities to appoint a discretionary Joint Health Overview and Scrutiny Committee to carry out all or specified health scrutiny functions, for example health scrutiny in relation to health issues that cross local authority boundaries. Establishing a joint committee of this kind does not prevent the appointing local authorities from separately scrutinising health issues. However, there are likely to be occasions on which a discretionary joint committee is the best way of considering how the needs of a local population, which happens to cross council boundaries, are being met.
- 2.2 Legislation also requires that local authorities appoint joint committees where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about proposals for substantial development or variation of services. In such circumstances:
- 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.
- 2.3 Increasingly, proposals from the National Health Services (NHS) are affecting larger geographical areas, particularly for local residents in Coventry and Warwickshire. This report proposes arrangements for Warwickshire County Council to establish a Joint Health Overview and Scrutiny Committee with Coventry City Council in line with the provisions set out in legislation and guidance.

3 Options considered and recommended proposal

- 3.1 **Option1** – Do not set up arrangements for a Joint Health Overview and Scrutiny Committee. This option is not recommended. NHS Organisations are required to consult Joint Health Overview and Scrutiny Committees on proposed changes which cover services in two or more Local Authority areas and are not required to consult each individual authority. If a joint Committee is not approved, Members may lose the opportunity to influence the outcome of the consultation and service reconfiguration.
- 3.2 **Option 2** - Set up a Joint Health Overview and Scrutiny Committee and delegate some or all of the County Council's health scrutiny functions to the Committee. This option is not recommended as delegating some or all of these functions to the Joint Committee would mean that the County Council would not be able to exercise these functions itself. This could include the

ability of the Adult Social Care and Health Overview and Scrutiny Committee to require health bodies to provide information and attend meetings of the Committee and in particular the powers of the Council to make a referral to the Secretary of State. This power arises when a health scrutiny body has been consulted by a relevant NHS body or health service provider on a proposed substantial development or variation, the scrutiny body may report to the Secretary of State in writing if : (1) It is not satisfied with the adequacy of content of the consultation; (2) 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; or (3) it has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate.

- 3.3 **Option 3** – Establish a Joint Health Overview and Scrutiny Committee in order to ensure that the authority is consulted and is able to respond to formal proposals for the substantial development or variation of health services that impact on the residents of Coventry and Warwickshire. This is the recommended option.
- 3.4 The Joint Health Overview and Scrutiny Committee will operate formally as a mandatory joint committee (i.e. where the councils have been required under Regulation 30 of the Local Authority (Public Health, Health and Well-being Boards and Health Scrutiny) Regulations 2013 to appoint a joint committee because a health service body is consulting more than one local authority's health scrutiny function about substantial reconfiguration proposals) for the purposes of dealing with the formal consultation as required by the regulations.
- 3.5 In this circumstance, the regulations require that the relevant NHS body or health service provider notify the health scrutiny body of the date by which it requires the health scrutiny body to provide comments in response to the consultation and the date by which it intends to make a decision as to whether to proceed with the proposal. These dates must also be published. Any changes to these dates must be notified to the relevant health scrutiny body and published. Department for Health guidance sets out that constructive dialogue between relevant NHS bodies and health service providers on the one hand, and health scrutiny bodies on the other, should take place to ensure that timescales for comments or decisions are realistic and achievable. It also suggests that it is sensible for health scrutiny bodies to be able to receive details about the outcome of public consultation before it makes its response so that the response can be informed by patient and public opinion.
- 3.6 At any other time, the Joint Health Overview and Scrutiny Committee can be convened as a discretionary committee with the agreement of both Committee Chairs. This would allow the Joint Committee to consider relevant issues but the two local authorities would retain their own individual delegated scrutiny authority and the joint committee would not have any formal powers. For example the Chairs could choose to convene the Joint Committee to receive a briefing on the timescales, engagement and consultation processes being

considered by health bodies prior to formal notification of the formal requirement to consult being made.

3.7 The proposed terms of reference for the Joint Committee is attached at Appendix 1. They are based on the Terms of Reference for JHOSC meetings which are already in use across the West Midlands, and have been for a number of years. Therefore, should a Joint HOSC be required with another West Midlands Authority, using similar terms of reference will help to facilitate this.

3.8 Key points from the terms of reference are;

- Each authority will appoint five members from their own Health Overview and Scrutiny Committees reflecting the political balance of each authority.
- The political balance for Warwickshire would be 4 Conservatives and 1 Labour member, whilst the political balance for Coventry would require 4 Labour and 1 Conservative member.
- The host authority will alternate with each meeting. The Chair of the Joint HOSC from the host authority will chair that meeting and the support for the meeting will also come from the host authority.
- Responses to consultations from the Joint HOSC must be signed by the Chairs of both authorities Health Overview and Scrutiny Committees.

3.9 The Chairs of each authority's Health Overview and Scrutiny Committee have and Coventry City Council's Health and Social Care Scrutiny Board have been consulted, together with Democratic and Legal Services officers from both authorities.

4.0 Timescales associated with the decision and next steps

4.1 Coventry City Council is expected to consider equivalent recommendations at its meeting on 11 July 2017. If the recommendations in this report are approved by both authorities then a Joint Health Overview and Scrutiny meeting can be established as soon as one is required.

Background papers

None

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The report was circulated to the following members prior to publication:

Local Member(s): None Other members: Councillor Izzi Seccombe; Councillor Les Caborn; Councillor Wallace Redford.