

## Council

22 May 2018

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

Report by the Interim Monitoring Officer and Assistant Director of Governance and Law

#### Purpose

To nominate members for appointment to the South West London and Surrey Joint Health Overview and Scrutiny Committee (JHOSC) and to endorse the proposed revised arrangements for this JHOSC including statutory powers of referral.

#### Recommendations

To **Resolve** that -

1. two members and two first and second alternates are nominated to the South West London and Surrey Joint Health Overview and Scrutiny Committee (JHOSC);
2. the proposed arrangements for the establishment of this JHOSC as set out in the report and Annexes 1 and 2 are endorsed; and
3. approval is given to delegate RBK's power of referral to the Secretary of State to the JHOSC on matters being considered by that committee.

#### Key Points

- A. Joint Health Overview and Scrutiny Committees must be appointed by Councils where health service change proposals affect more than one local authority. A Joint South West London Health Overview and Scrutiny Committee (JHOSC) was formed at the beginning of the 4 year term in 2014. It considered inpatient service capacity at South West London and St George's Mental Health Trust. It also began work on the South West London Sustainability and Transformation Plan (STP).
- B. With the new four year term it is necessary to re-appoint a JHOSC, with the inclusion of Surrey County Council, as the current STP includes the Epsom and St Helier NHS Trust which comprises hospitals in the LB Sutton and Surrey County Council (at Epsom).
- C. The proposed Terms of Reference and Rules of Procedure are set out at Annex 1 and Annex 2 to this report. These are very similar to those previously endorsed in 2014.
- D. The Council is requested to delegate Kingston's powers of referral to the Secretary of State to the JHOSC on matters which are considered by that committee and which affect residents of Kingston. The Council will retain powers of referral to the Secretary of State on matters which relate only to Kingston residents.

#### Context

1. Under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, local authorities may establish a Joint Health Overview and Scrutiny Committee (JHOSC) to undertake health scrutiny functions on their behalf, and must establish a Joint Health Overview and Scrutiny Committee to

respond to consultation on proposals for substantial variation in health services affecting more than one local authority area.

2. Discussions between officers responsible for health scrutiny across South West London and Surrey County Council has concluded that the best way forward is the continuation of a Standing Joint Health Overview and Scrutiny Committee, with responsibility for responding to consultations on substantial service change affecting multiple boroughs 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.
3. The draft terms of reference and rules of procedure are attached as Annexes 1 and 2. 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.

#### First meeting of the Committee

4. 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;
  - To decide whether to delegate the power of referral to the sub-committee or retain within each local authority.

## **Legal Implications**

5. The National Health Service Act 2006 amended by the Health and Social Care Act 2012 confers health scrutiny functions on the local authority. The full Council of the Local Authority determines the arrangement for health scrutiny to be adopted. The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013 enable health scrutiny functions to be delegated to a joint health overview and scrutiny committee (JHOSC). In the Regulations there is provision for a Local Authority to refer proposals for substantial development or variations to health services to the Secretary of State in certain specified circumstances. Where a Local Authority is participating in a JHOSC the power to refer to the Secretary of State can be delegated to the JHOSC or retained by the Council. This report seeks approval to delegate the power of referral to the Secretary of State to the JHOSC in relation to matters being considered by the JHOSC. In these circumstances only the JHOSC can make a referral. For all other matters the power of referral is retained by the Council.

**Financial Implications - None**

**Background papers - None**

Author of the report - Marian Morrison, Democratic Support Officer, tel 020 8547 4623  
marian.morrison@kingston.gov.uk

Author of the JHOSC Terms of Reference, Rules of Procedure and context, Stella Akintan,  
Scrutiny Officer, LB Merton

**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 carry and 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.