

**CHESHIRE EAST/CHESHIRE WEST AND CHESTER/METROPOLITAN BOROUGH
OF WIRRAL JOINT SCRUTINY COMMITTEE**

Date of meeting: Thursday 7 May 2009
Report of: Borough Solicitor
Title: Arrangements for establishing the Joint Scrutiny Committee

1.0 Purpose of Report

- 1.1 To set out proposals for establishing the Joint Scrutiny Committee.

2.0 Decision Required

- 2.1 That the Committee decide the arrangements for establishing the Joint Scrutiny Committee as set out below:
- (a) how to appoint the Chairman and Vice Chairman in future;
 - (b) that secretarial support be provided by Cheshire East at the moment;
 - (c) the Committee agree the frequency of meetings to be three per year with mid point meetings held in between involving the Chairman, Vice Chairman and Spokesperson;
 - (d) venues for future meetings be agreed;
 - (e) the Terms of Reference be endorsed; and
 - (f) a report be submitted to a future meeting on co-option and any necessary protocols.

3.0 Financial Implications 2009/10 and beyond

- 3.1 Minimal - room hire and refreshment costs.

4.0 Background and Options

Background

- 4.1 The Health and Social Care Act 2001 (consolidated into the NHS Act 2006) required local authorities with Social Care responsibilities to establish Scrutiny arrangements to respond to consultations by NHS bodies about substantial variations and developments to Health Services. A "substantial variation or development" is not defined in Regulations. Proposals may range from changes that affect a small group of people within a small geographical area, to major reconfigurations of specialist services involving large numbers of patients across a wide area. The key feature is that there is a major change to services experienced by patients and future patients. Overview and Scrutiny Committees (OSCs) and NHS bodies are

encouraged to develop local agreements or sets of criteria about what might be regarded as “substantial” locally.

- 4.2 NHS bodies have specific duties about providing information to the OSC on individual proposals for change and in attending meetings to answer questions, so as to enable the Committee to respond to the consulting organisation in writing on the following points:-
- (1) whether as a statutory body, the OSC has been properly consulted within the consultation process
 - (2) whether, in developing the proposals for service change, account has been taken of the public interest through appropriate patient and public involvement and consultation
 - (3) whether the proposals for change are in the interest of the local Health Service.

The NHS body is expected to report the OSC's views to its Board before any action is taken, and thereafter to respond formally to the Committee. If the Committee remains dissatisfied over process, it can refer the matter to the Secretary of State and the Independent Reconfiguration Panel.

- 4.3 The status, profile and expectations placed upon Health Scrutiny in recent years have increased steadily – e.g. the Healthcare Commission's assumption that OSCs will contribute to the Annual Health Check Performance Assessments of individual Trusts and the Local Government and Public Involvement in Health Act's emphasis on the close relationship between the Health OSC and Local Involvement Network (LINKs).
- 4.4 Where there are proposals for substantial variation or developments to NHS services affecting more than one overview and scrutiny committee, the consulting NHS body has a duty to consult all the OSCs affected. The Secretary of State has made Directions stating that in such circumstances, all local authorities within the area must establish a joint committee for the purposes of responding to the consultation, using the method most appropriate to the areas and the issues being considered.
- 4.5 A Joint Committee has been in existence since 2004 between Cheshire County Council and Wirral Metropolitan Borough Council to cover the work of the Cheshire and Wirral Partnership Foundation NHS Trust – the provider of mental health, learning disability and drug/alcohol services across Cheshire and Wirral. All three constituent Local Authorities have supported the continuation of a Joint Scrutiny Committee.

Membership:

- 4.6 Membership from the 3 Authorities is listed below:

Cheshire East

Councillors Carolyn Andrew, Gordon Baxendale, Chris Beard, Dorothy Flude, Shirley Jones and Allan Richardson;

Cheshire West and Chester

Councillors Andrew Dawson, Paul Donovan, John Grimshaw , Patricia Lott, Graham Smith and Robert Thompson.

Wirral Metropolitan Borough Council

Councillors Ann Bridson, Iris Coates, Peter Reisdorf, Denise Roberts, Sue Taylor and Geoffrey Watt.

Chair and Vice Chair and Secretary for the Joint Scrutiny Committee

- 4.7 The previous model saw the position of Chairman and Vice Chairman alternating annually between Cheshire County Council and Wirral MB Council, with Secretarial services being supplied by the Authority providing the Chairman. It is suggested that Secretarial services be provided by Cheshire East Council for the time being in order to provide some continuity. Members' views are sought on whether the position of Chairman and Vice Chairman should rotate on a yearly basis with the Authority that doesn't hold one of these positions nominating a Spokesperson.

Meeting Arrangements

- 4.8 The previous Joint Committee met three times a year and it is proposed that this could continue with mid-point meetings in between involving the Chairman, Vice Chairman and Spokesperson from the other Authority. The purpose of mid-point meetings is to enable the key Members to meet with Partnership Trust colleagues to identify and prioritise well in advance the anticipated business of the Committee.
- 4.9 Meeting venues have moved between Cheshire and Wirral with meetings held at various venues in Chester, and Ellesmere Port, Cheshire as well as Bebington and Wallasey, Wirral. Members' views are requested as to future venues and times for meetings.

Terms of Reference and Protocols

4.10 Proposed Terms of Reference are set out below:

1 to undertake the Scrutiny of, and report on, any matter relating to the planning, provision and operation of services provided by the Cheshire and Wirral Partnership NHS Foundation Trust (including commenting on the annual “health check” of the performance of the Trust) within the areas of Cheshire East Council, Cheshire West & Chester Council and Wirral Metropolitan Borough Council

2 to consider and comment upon any proposals submitted by the Trust for substantial development or variation in the provision of its services

3 to consider any matters referred to the Joint Committee by Cheshire East Council Health & Adult Social Care Scrutiny Committee, or Cheshire West & Chester Health and Wellbeing Select Panel, or the Metropolitan Borough of Wirral’s Social Care, Health and Inclusion Overview and Scrutiny Committee

4 to consider any matters referred to the Joint Committee by the appropriate Local Involvement Network (LINK).

4.11 The Committee may want to adopt a Protocol for dealing with Consultations on Substantial Developments on Variations in Service (SDVs). Detailed changes to services can and do take place on a regular basis within individual Trusts. It would be unreasonable for Health Scrutiny to be involved in each one of these both for practical reasons and also in acknowledgement that engagement/consultation needs to be proportionate. The role of Scrutiny in the consultation process does have a statutory basis however, and the Committee will need to be assured that it is being given a proper opportunity to exercise that role on behalf of the community.

Experience suggests that there are three levels of change to NHS services that would require notification/consultation:-

Level One

Where the proposed change is minor in nature – eg. Change of a Clinic time

In this case, the Joint Scrutiny Committee would not wish to get involved directly, but would assume that the Local Involvement Network (LINK) would be consulted.

Level Two

Where the proposed change -eg a Draft Local Delivery Plan, proposal to rationalise Community Health Teams etc. - will involve consultation with patients/carers/staff, but will not involve

- reduction in service
- change to local access to service
- large numbers of patients being affected

The Joint Scrutiny Committee would wish to be notified at as early a stage as possible but would be unlikely to require it to be dealt with formally as an SDV. A formal briefing may be required for Members. The local Councillors will be informed by the Secretary. The Committee would wish to ensure that all other appropriate organisations have been notified by the Trust.

Level Three

Where the proposal –eg a major Review of Service Delivery, Reconfiguration of GP Practices, Closure of a Unit - is likely to lead to

- reduction/cessation of service
- re-location of service
- changes in accessibility criteria
- local debate and concern

The Joint Scrutiny Committee would regard this as a substantial change and would expect to be notified at as early a stage as possible to advise on the process of consultation and to be formally consulted by the NHS body in accordance with the Cabinet Office Guidelines of a 12 week consultation period.

Co-option

- 4.12 The previous Committee had co-opted Members from the former Patient and Public Involvement Forum. This organisation has now been replaced by Local Involvement Networks (LINKs). It is proposed that a report be submitted to a future meeting on whether or not to recommend formal co-option to this Joint Committee.

5.0 Risk Assessment

- 5.1 There are no identifiable risks.

For further information:

Officer: Denise French, Scrutiny Officer, Cheshire East Council

Tel No: 01270 529643

Email: denise.french@cheshireeast.gov.uk

Background Documents:

Documents are available for inspection at: None