

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	1 st May 2014
Report of:	Head of Governance and Democratic Services
Subject/Title:	Cheshire/Wirral/Merseyside – Joint Scrutiny Arrangements

1.0 Report Summary

- 1.1 The purpose of this report is to seek a recommendation from the Constitution Committee to Council to adopt a protocol for the setting up of joint scrutiny arrangements across Cheshire, Wirral and Merseyside authorities to deal with formal consultations regarding Substantial Developments or Variations (SDVs) that affect more than one local authority.

2.0 Recommendations

- 2.1 That it be recommended to Council that
1. the draft joint scrutiny protocol be adopted; and
 2. nominations to any Joint Scrutiny Committees established in accordance with the protocol be made by the Health and Wellbeing Scrutiny Committee (or successor body) in compliance with the proportionality requirements set out in the protocol.

3.0 Reasons for Recommendations

- 3.1 The Constitution Committee is responsible for recommending changes to the Constitution to Council.

4.0 Wards Affected

- 4.1 All.

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications

- 6.1 Not applicable at this stage.

7.0 Financial Implications

- 7.1 None for the local authority.

8.0 Legal Implications

- 8.1 The Health and Social Care Act 2012 introduced new arrangements requiring joint scrutiny committees to be established whenever proposals made by relevant NHS bodies are deemed to be a substantial development or variation in service (SDV) by more than one local authority.

9.0 Risk Management

- 9.1 There are no identifiable risks

10.0 Background

- 10.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations introduced new arrangements to require a joint scrutiny committee to be established for the purposes of considering consultations by a relevant NHS body or provider of NHS funded Services where such proposals impact on more than one local authority area and where more than one authority agrees that the proposal is an SDV.
- 10.2 In anticipation of substantial changes in the provision of cancer services at the Clatterbridge Centre in Wirral, Knowsley Borough Council, as lead authority on behalf of the Merseyside authorities, has developed a draft protocol (attached) which proposes a framework for the operation of joint scrutiny across Cheshire/Merseyside/Wirral. The protocol will initially be utilised for the purposes of setting up a joint committee in relation to the anticipated Clatterbridge consultation and also for any subsequent consultations regarding SDVs.
- 10.3 Cheshire, and Merseyside authorities have been invited to consider and adopt the protocol in order for it to be in place ahead of the formal consultation process regarding the Clatterbridge centre which is expected to begin later in the summer of 2014. As part of the formal Clatterbridge consultation, the Health and Wellbeing Scrutiny committee being the Council's statutory scrutiny body in this respect will be formally invited to consider whether the proposals are considered to be an SDV insofar as Cheshire East is concerned.
- 10.4 The protocol puts in place arrangements to formally convene a joint health overview and scrutiny committee to be made up of each of the constituent local authorities that deem a proposal to be an SDV. In dealing with substantial development/variations, the joint health overview and scrutiny committee can:
- make comments on the subject proposal

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- report to the Secretary of State in writing where it:
 - is not satisfied that consultation with the relevant health scrutiny arrangements on any proposal has been adequate
 - is not satisfied that reasons for an 'emergency' decision that removes the need for formal consultation with health scrutiny are adequate
 - does not consider that the proposal would be in the interests of the health service in its area

- 10.5 In practical terms, when a consultation is received by a local authority, each local Health Scrutiny Committee will need to determine whether the proposal is considered to be an SDV in its own area, (this Council has a separate protocol which provides guidance on SDVs). If a local authority considers the matter to be an SDV and at least one other authority also does, then a joint committee has to be established. If the authority does not consider it to be an SDV, then the authority will not be involved in the formal consultation. Once a joint committee has been established, only the joint committee may formally respond to the consultation.
- 10.6 The membership of the joint committee is not fixed and will be determined on each occasion depending on the number of participating authorities. So for instance, if 4 or more authorities are taking part, then each participating authority will be invited to nominate 2 members and if there are 3 or less authorities, each participating authority will be invited to nominate 3 members. Each authority will be required to submit nominations in accordance with its own political balance.
- 10.7 The existence of joint health overview and scrutiny committee is time-limited to the course of the specified consultation and it may not otherwise carry out any other activity.
- 10.8 The draft protocol also sets out a framework for the operation of joint scrutiny activity which may be carried out on a discretionary basis into then planning, provision and operation of the health service.
- 10.9 In terms of political balance, the protocol proposes that the joint committee is made up of Councillors to reflect the political balance of each of the constituent local authorities.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the presenting officer:

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