

CHESHIRE EAST COUNCIL

Health and Wellbeing Scrutiny Committee

Date of Meeting: Thursday 13 February 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 the committee's views on proposals to set up a protocol for 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 Recommendation

- 2.1 That the views of the Committee on the draft joint scrutiny protocol be referred to the Constitution Committee for consideration.

3.0 Reasons for Recommendations

- 3.1 The Constitution committee is responsible for recommending changes to the Constitution to Full 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 has introduced new arrangements requiring joint scrutiny committees to be established whenever proposals made by NHS bodies are deemed to be substantial developments or variation in service, 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, Wirral and Merseyside authorities have been invited to consider and adopt the protocol in order for it to be in place before the formal consultation regarding the Clatterbridge centre begins in June 2014. This committee will, as part of the formal Clatterbridge consultation, be asked to consider whether the proposals are considered to be an SDV insofar as Cheshire East is concerned. A map of the Cheshire CCG and local authority areas is attached together with a map showing North of England Area teams for NHS England.
- 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 it does consider 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. Each authority will be required to submit nominations that reflect its own political balance. The numbers of nominations per authority will depend upon the number of participating authorities. Nominated substitutes will also be permitted. For this reason, the make up of the committee is likely to change on each occasion and the protocol provides some theoretical examples to illustrate how this would work.
- 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 The draft protocol proposes 2 options on political balance:

Option 1

The joint committee is made up of Councillors to reflect the political balance of each of the constituent local authorities.

Option 2

The joint committee is made up of Councillors to reflect the political balance of each individual authority and efforts will be made to ensure the joint committee is proportionately representative of the populations of the local authorities participating in the arrangement.

- 10.10 It is clear that option 1 is the simplest and most straightforward to administer and the informal view of the Chairman of this committee and Portfolio holder is that the Council should support option 1.

11.0 Approval procedure

- 11.1 As the adoption of the protocol will necessitate changes to the constitution, the protocol will be subject to consideration by the Constitution committee on 20 March 2014 prior to it being submitted to Council in April 2014.

11.0 Access to Information

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

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