

## **BRIEFING REPORT**

### **Health and Adult Social Care and Communities Overview and Scrutiny Committee**

---

**Date of Meeting:** 13 June 2019

**Report Title:** Local Authority Health Scrutiny Powers and Regulations – A Summary

**Portfolio Holder:** Councillor L Jeuda – Portfolio Holder for Adult Social Care and Health

Councillor J Rhodes – Portfolio Holder for Public Health and Corporate Services

Councillor M Warren – Portfolio Holder for Communities

**Author:** Joel Hammond-Gant – Scrutiny Officer

**Senior Officer:** Mark Taylor – Interim Executive Director of Corporate Services

---

#### **1. Introduction and Policy Context**

- 1.1. This report presents a summary of the regulations and legislation surrounding local authority health scrutiny, including the specific responsibilities and powers that a health scrutiny committee has (in addition to those bestowed on all overview and scrutiny committees.)

#### **2. Background**

- 2.1. This report is intended to introduce councillors new to health scrutiny to, and refresh the knowledge of councillors with pre-existing experience of, the general regulations and powers relating to local authority health scrutiny.

- 2.2. This report will be supplemented by induction training being held for all members of the committee prior to its first meeting of the 2019/20 council year on 13 June, 2019.

### **3. Briefing Information**

- 3.1. Since the introduction of the Local Government Act 2000 (which came into force in 2001,) local authorities operating executive governance arrangements have been required to establish and maintain an overview and scrutiny function.
- 3.2. In addition to this, all councils whether operating executive arrangements or a committee system of governance, have a statutory responsibility to review or scrutinise any matter relating to the planning, provision and operation of health services in their respective areas.

#### **What is health scrutiny?**

- 3.3. The primary aim of health scrutiny is to strengthen the voice of local people, ensuring that their needs and experiences are considered as an integral part of the commissioning and delivery of health services, and that those services are both effective and safe.
- 3.4. It provides a means by which democratically elected councillors can voice the views of their constituents, and hold relevant NHS bodies and health service providers to account. It is therefore imperative that health scrutiny functions operate in a transparent manner, so that local people have the opportunity to see and hear proceedings, and can be involved in local health service matters in their area.
- 3.5. Health scrutiny has a strategic role in taking an overview of the longer term commissioning and delivery plans and strategies of its local health partners. For many local authorities in recent years, this strategic role has involved overseeing how well health, public health and social care services are being integrated; a growing necessity in an increasingly challenging financial climate.
- 3.6. At the same time, health scrutiny has a role in proactively seeking information about the performance of local health services, in challenging the information provided to it by commissioners and service providers, and in testing this information by drawing on different sources of intelligence.
- 3.7. Effective health scrutiny requires open and honest engagement from relevant NHS bodies and health service providers, and the establishing of strong, effective working relationships between these and local authority health scrutiny bodies.

### **Specific Powers**

- 3.8. Upper tier local authorities in England (i.e. unitary authorities, county councils, and metropolitan borough/district councils) have the power to:
- 3.8.1. Review and scrutinise matters relating to the planning, provision and operation of the health service in the area. This can include scrutinising the finances of local health services.
  - 3.8.2. Require information to be provided by certain NHS bodies about the planning, provision and operation of health services.
  - 3.8.3. Require officers of certain NHS bodies to attend before them to answer questions.
  - 3.8.4. Make reports and recommendations to certain NHS bodies and expect a response to these within 28 days.
  - 3.8.5. Set up joint health scrutiny committees with other local authorities and delegate health scrutiny functions to an overview and scrutiny committee of another local authority.
  - 3.8.6. Refer significant developments or variations of local health service provision to the Secretary of State for Health and Social Care. The power to refer such matters is explained in more detail below.

### **Referring Matters to the Secretary of State for Health and Social Care**

- 3.9. NHS bodies are statutorily required to consult with local authorities and the public about any proposals they have that could be considered a significant development or variation to the local health service provision.
- 3.10. Upon consultation, a local authority health scrutiny body will decide whether or not it considers a particular proposal to be 'significant'. It will also recommend to the responsible NHS bodies what length of formal consultation with the public it feels would be appropriate.
- 3.11. A local authority health scrutiny body can refer significant developments or variations (SDVs) to the Secretary of State for Health and Social Care if it considers that:
- The consultation carried out on any substantial reconfiguration proposal has been inadequate (either in terms of content or the amount of time allowed)
  - The NHS body has not given adequate reasons why it has not consulted

- 3.12. Although SDVs are not formally set out in any legislation, there is an agreed practice that is followed. More specific detail on these types of proposals and the role of health scrutiny bodies in them can be found in the Department of Health's 2014 guidance on [Local Authority Health Scrutiny](#).

### **Making Reports and Recommendations**

- 3.13. Under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, when scrutinising a particular health matter, the local authority undertaking the review must:

- (1) Invite interested parties to comment on the matter, and
- (2) Take account of all the relevant information available to it (i.e. information referred to it from its local Healthwatch body.)

- 3.14. The following information must be included in any report or recommendation made by a local authority health scrutiny body to relevant NHS bodies and health service providers:

- An explanation of the matter reviewed or scrutinised.
- A summary of the evidence considered.
- A list of the participants involved in the review or scrutiny.
- An explanation of any recommendations on the matter reviewed or scrutinised.

- 3.15. Where a local authority health scrutiny body requests a response from a relevant NHS body or health service provider to which it has made a report or recommendation, there is a statutory requirement for the body/provider to provide a response in writing within 28 days of this request.

## **4. Implications**

### **4.1. Legal Implications**

- 4.1.1. There are no legal implications arising from this report.

### **4.2. Financial Implications**

- 4.2.1. There are no financial implications arising from this report.

### **4.3. Human Resources Implications**

- 4.3.1. There are no human resources implications arising from this report.