

PARTNERSHIPS COMMITTEE

Tuesday, 29 June 2021

REPORT TITLE:	JOINT HEALTH SCRUTINY
REPORT OF:	DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

REPORT SUMMARY

In accordance with the protocol established as the framework for the operation of joint health scrutiny arrangements across the local authorities of Cheshire and Merseyside, the Partnerships Committee is requested to nominate Members to sit on the Joint Health Scrutiny Committee.

The protocol stipulates that each participating local authority should ensure that those Councillors it nominates to a joint health overview and scrutiny committee reflect its own political balance. However, overall political balance requirements may be waived with the agreement of all participating local authorities.

Depending on the issue to be scrutinised, meetings will be attended by either 2 or 3 Members (see section 6.3.2 of the protocol attached at Appendix 1). To meet the political balance requirements the three Members should be appointed as follows: two Labour and one Conservative.

This issue was considered by this Committee in January 2021 when Councillors Christine Spriggs, Christina Muspratt and Leslie Rennie were appointed but this now needs to be revisited.

RECOMMENDATION/S

The Partnerships Committee is requested to:

- (1) appoint three members to the Joint Health Scrutiny Committee in accordance with the political balance requirements;
- (2) declare any NHS changes to be substantial in order to allow participation in joint health scrutiny.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To ensure that Members of Wirral Council are represented on the Joint Health Scrutiny Committee.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Committee could choose not to engage in joint scrutiny and not make appointments.
- 2.2 Changes could not be declared as 'substantial' but this would remove the possibility to engage in joint scrutiny.

3.0 BACKGROUND INFORMATION

- 3.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 came into effect on 1 April 2013 revising existing legislation regarding health scrutiny.
- 3.2 Ultimately the regulations place a requirement on relevant scrutiny authorities to reach a view on whether they are satisfied that any proposal that is deemed to be a substantial development or variation is in the interests of the health service in that area, or instead, that the proposal should be referred to the Secretary of State for Health. Where such proposals impact on more than one local authority area, each authority's health scrutiny arrangements must consider whether the proposals constitute a substantial development or variation or not. The regulations place a requirement on those local authorities that agree that a proposal is substantial to establish, in each instance, a joint overview and scrutiny committee for the purposes of considering it. As a result a protocol has been established to deal with the proposed operation of such arrangements for the local authorities of Cheshire and Merseyside and is attached at Appendix 1 to the report.
- 3.3 The protocol further details the role of the Joint Committee, its powers and how the Membership is constituted. The role is also further outlined under Part 3, Section B – Partnerships Committee (Section 9.4 *Joint Health Scrutiny Committee*)

Appointment of Members

- 3.4 In this instance there is a need to appoint three Members, in which case in order to meet the political balance requirements three Members should be appointed as follows:

Labour: 2
Conservative: 1
- 3.5 Should the meeting of the Joint Health Scrutiny Committee only require attendance by two Members, then only one Labour Member will be required to attend along with one Conservative Member.

- 3.6 This issue was considered by this Committee in January 2021 when Councillors Christine Spriggs, Christina Muspratt and Leslie Rennie were appointed but this now needs to be revisited to take account of the change in membership of the Committee.

Declaring changes as ‘substantial’

- 3.7 In the Joint Health Scrutiny Protocol (attached as the appendix to this report) Section 5.1.7 notes that 'Determining that a proposal is not a substantial development/variation removes the ability of an individual local authority to comment formally on the proposal and exercise other powers, such as the power to refer to the Secretary of State. Once such decisions are made, the ongoing obligation on the proposer to consult formally on a proposal relates only to those authorities that have deemed the proposed change to be “substantial” and this must be done through the vehicle of the joint committee. Furthermore the proposer will not be obliged to provide updates or report back on proposals to individual authorities that have not deemed them to be “substantial”.'
- 3.8 The proposed change in NHS considered elsewhere at this meeting would therefore need to be declared substantial for the joint arrangements to be implemented if the Committee wished to go down this route.
- 3.9 There is a requirement on relevant scrutiny authorities to reach a view on whether they are satisfied that any proposal that is deemed to be a substantial development or variation is in the interests of the health service in that area, or instead, that the proposal should be referred to the Secretary of State for Health. Where such proposals impact on more than one local authority area, each authority's health scrutiny arrangements must consider whether the proposals constitute a substantial development or variation or not. There is a legal requirement of on those local authorities that agree that a proposal is substantial to establish, in each instance, a joint overview and scrutiny committee for the purposes of considering it. As a result a protocol has been established to deal with the proposed operation of such arrangements for the local authorities of Cheshire and Merseyside and is attached at Appendix 3 to this report.
- 3.10 In considering whether a proposal is substantial, all local authorities are encouraged to consider the following criteria:
- *Changes in accessibility of services:* any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location.
 - *Impact on the wider community and other services:* This could include economic impact, transport, regeneration issues.
 - *Patients affected:* changes may affect the whole population, or a small group. If changes affect a small group, the proposal may still be regarded as substantial, particularly if patients need to continue accessing that service for many years.
 - *Methods of service delivery:* altering the way a service is delivered may be a substantial change, for example moving a particular service into community settings rather than being entirely hospital based.
 - *Potential level of public interest:* proposals that are likely to generate a significant level of public interest in view of their likely impact.

3.11 These criteria will assist in ensuring that there is a consistent approach applied by each authority in making their respective decisions on whether a proposal is “substantial” or not. In making the decision, each authority will focus on how the proposals impacts on its own area/ residents.

3.11 Partnerships Committee resolved on 13 January 2021 in relation to a report on Strategic Developments in the NHS:

“That the report be noted and the Partnership Committee will continue to return to this crucial piece of work to enable us to scrutinise the effectiveness of the proposals so that we can see that they are turning into effective actions which will ensure that improvements in the health and wellbeing of our residents takes place and that serious health inequalities that exist in our Borough are tackled and ended.”

4.0 FINANCIAL IMPLICATIONS

4.1 Appointment to the Joint Scrutiny Committee does not include entitlement to a Special Responsibility Allowance but travel and subsistence is covered by the Members’ Allowances Scheme.

5.0 LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from this report aside from complying with the agreement of joint scrutiny arrangements.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no direct implications to staffing, ICT or Assets.

7.0 RELEVANT RISKS

7.1 By not appointing Members to the Joint Health Scrutiny Committee, the views of Wirral Council and its residents will not be represented although changes will affect Wirral residents as much as in other authority’s areas.

8.0 ENGAGEMENT/CONSULTATION

8.1 Not applicable.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

9.2 This report requires Members to make an appointment and as such there are no direct equality Implications.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no direct environment and climate implications.

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APPENDICES

Appendix 1: Protocol for Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside

BACKGROUND PAPERS

Protocol for Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside
Wirral Council's Constitution

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Wirral & Cheshire West Joint Health Scrutiny Committee	11 December 2018
Partnerships Committee	13 January 2021