

WIRRAL COUNCIL

Policy and Performance Coordinating Committee

01 April 2014

SUBJECT:	Protocol for the establishment of joint health scrutiny arrangements for Cheshire and Merseyside
WARD/S AFFECTED:	ALL
REPORT OF:	Director of Public Health / Head of Policy and Performance.
Portfolio Holder	Cllr Ann McLachlan (Governance and Improvement)

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of the report is to outline the process currently being undertaken to develop a joint health scrutiny protocol/arrangements covering the Cheshire and Merseyside area pursuant to The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ("Regulations").
- 1.2 A copy of the draft protocol is attached at Appendix 1 to the report. The protocol responds to a requirement set out in Regulations and provides a vehicle for establishing joint health scrutiny committees with the other authorities in the Cheshire and Merseyside area as the need may arise.
- 1.3 The requisite changes required to the Council's Constitution are set out at Appendix 2.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Since 2001, local authority overview and scrutiny committees have had specific powers which relate to the scrutiny of health services. These powers include setting out how overview and scrutiny committees are statutorily obliged to scrutinise proposals for 'substantial' variation to local health services.
- 2.2 The term 'substantial' is not defined in legislation. However it is generally considered that a substantial change or variation to a health service is one that has a major impact on services experienced by patients and/or future patients.
- 2.3 Ultimately legislation gives overview and scrutiny committees the power to refer a proposal to the Secretary of State if they believe that it is not in the interests of the health service or if they have not been adequately consulted on a proposal. This means that all providers of NHS services, such as hospital Trusts, Clinical Commissioning Groups and mental health trusts are required to

undertake engagement and consultation with health overview and scrutiny committees before they implement a health service change.

- 2.4 New Health Scrutiny Regulations came into effect last year from 1st April 2013. The Regulations allows for the establishment of joint health scrutiny committees where more than one local authority's health scrutiny arrangements consider a proposed change in NHS services to be substantial in terms of the impact on its area. There is no provision within the regulations for a local authority to undertake its own scrutiny into a proposed substantial variation if the service is provided across local authority boundaries and is deemed to be substantial by more than one authority. The regulations also provide for the discretionary establishment of joint health scrutiny committees in other circumstances.
- 2.5 Work has been undertaken to produce a protocol which will provide a framework for the establishment of such joint committees. The intention is to develop a mutual understanding between the relevant authorities and to deliver a document that facilitates such joint working in the future.
- 2.6 Officers from Knowsley Council have taken the lead liaison role in terms of developing the draft document and coordinating the circulation / version control. The protocol has been developed using a model established in Yorkshire and Humberside. It is proposed that the protocol would be reviewed on an annual basis to ensure that it works effectively and complies with any new legislation and guidance.
- 2.7 The intention is to secure the agreement of all Cheshire and Merseyside authorities to the draft protocol during the coming months. This includes the following authorities:
 - Cheshire East Council
 - Cheshire West and Chester Council
 - Halton Borough Council
 - Knowsley Metropolitan Borough Council
 - Liverpool City Council
 - St Helens Metropolitan Borough Council
 - Sefton Council
 - Warrington Borough Council
 - Wirral Borough Council
- 2.8 The first instance where the protocol will be require will be to deal with proposals to change the delivery of cancer services currently provided by Clatterbridge Cancer Centre NHS Foundation Trust.

3.0 THE DRAFT PROTOCOL

- 3.1 The 'Protocol for the establishment of joint health scrutiny arrangements for Cheshire and Merseyside' (Appendix 1) is intended to provide a framework to guide the operation of joint health scrutiny arrangements for all Merseyside and Cheshire local authorities.
- 3.2 The protocol sets out the following:

1. The requirement on local NHS bodies and providers to consult with health overview and scrutiny committees at the earliest opportunity. This involves direct consultation with each individual local authority as soon as a formal proposal has been developed.
 2. A process for how individual local authorities should decide whether health service proposals constitute a substantial change, effectively stage 1 in the process for setting up a Joint Committee. This includes suggested criteria on which to judge whether a proposed change is 'substantial'.
 3. The circumstances when joint health scrutiny arrangements are required to be formed. Only those authorities that agree that a change is "substantial" can enter into a joint arrangement.
 4. The Powers of a joint health overview and scrutiny committee. This includes powers to:
 - make comments and recommendations on any proposal;
 - require local NHS providers to respond to requests for information or specific recommendations; and
 - report to the Secretary of State.
 5. The Membership arrangements of any joint scrutiny committee. This includes a sliding scale membership approach for nominees from each authority, determined by the number of local authorities participating.
 6. Committee administration and conduct. This includes identification of a lead local authority, conduct in meetings, and reports of committee.
- 3.3 The protocol also allows for discretionary joint health scrutiny to take place. This is where two or more local authorities agree to form a joint overview and scrutiny committee for the purposes of 'general' scrutiny of a local NHS body or health service provider.

4.0 IMPLICATIONS FOR WIRRAL

- 4.1 For all 9 local authorities, the proposed joint health scrutiny arrangements would require a change to the constitution to comply with the regulations. The regulations effectively require an authority to delegate its health scrutiny to a joint committee where a proposed service change covers two or more local authority areas.
- 4.2 It is proposed that nominations for any joint committee would come from the Families and Wellbeing Policy and Performance Committee, as the committee charged with the responsibility for Health Scrutiny in Wirral. Nominations would be put forward from the Committee as the case for a Joint Health Scrutiny Committee arises.
- 4.3 The number of Committee Members per local authority ranges between one and three depending on the number of authorities involved in the joint

committee. The rationale for the proposal of one Member, where eight or nine local authorities establish a joint committee is based on the principle that the larger a committee becomes, the more difficult it is to coordinate diaries and effectively manage business.

- 4.4 In developing the Membership arrangements set out in the Protocol, two options were considered. The alternative option provided for additional Committee Members to be allocated to those authorities with larger populations. This option was considered to be more favourable for Wirral Council (with the fourth largest population of the nine authorities). However, of the nine authorities, seven were in favour of the simpler option as set out in the draft protocol.
- 4.5 The protocol requires that authorities nominate membership of a joint committee to reflect its own political balance. To accommodate nominations of one, two or three Members from Wirral, the following allocation is suggested for consideration by Members in line with the Council's current proportionality:

No of Members	Allocation
One	One Labour
Two	One Labour, One Conservative
Three	Two Labour, One Conservative

- 4.6 To ensure that Member/s on any joint committee best reflect the collective views of the Families and Wellbeing Policy and Performance Committee, it is proposed that a meeting of that committee is held prior to Wirral's Member/s going forward to sit on the Joint Committee. In addition, a briefing could be provided setting out the purpose of the consultation to solicit the views of all Members of the Council.
- 4.7 To give effect to the proposals as outlined in this report, the Committee is invited to recommend to Council the proposed changes to the Council's Constitution as detailed in Appendix 2 to this report.

5.0 TIMETABLE

- 5.1 The protocol has been shared at officer level across all potential participating local authorities. It is currently in the process of being taken through the approval processes of all nine authorities prior to being adopted by each authority at Full Council.
- 5.2 The Clatterbridge Cancer Centre NHS Foundation Trust is currently developing proposals to relocate some service provision to the Royal Liverpool Hospital. These services are provided to all residents covering Cheshire and Merseyside. The indication is that a public consultation will be launched in June/July. The Health Scrutiny of this proposal would follow soon after with the consultation results being considered by the Joint committee as part of its evidence.
- 5.3 A letter to each of the 9 authorities setting out the proposals and timeframe is expected in the coming weeks. It will be for the Families and Wellbeing Policy and Performance Committee to determine whether proposals are deemed to

represent a substantial development or variation for Wirral (stage 1 of the process).

- 5.4 It is essential therefore that the protocol can be adopted by each authority at the earliest opportunity to allow it to be used to govern the operation of a joint arrangement for the purposes of considering these proposals. The aim is for the protocol to have been approved by all authorities by June 2014. A recommendation would need to be made in relation to proposed amendments to the Constitution at Council's Annual Meeting in June.

6.0 CONCLUSION

- 6.1 The Protocol for the establishment of joint health scrutiny arrangements for Cheshire and Merseyside has been developed in response to new Health Scrutiny Regulations. Subject to the approval of the Coordinating Committee, there is a need for Wirral to endorse this protocol to ensure its participation in the future establishment of any Joint Health Scrutiny Committee. The timetable for approval is dependent on the need for all authorities to approve the same version of the document. There is also a need to have the protocol approved in order to respond to the anticipated consultation on proposed changes by Clatterbridge Cancer Centre Foundation Trust in the summer.

7.0 RELEVANT RISKS

- 7.1 There is a risk that individual Councils may not ultimately be in a position to adopt the finalised substantive document. This can only be mitigated by attempting to ensure that views from each authority are accommodated, as far as practically possible, to ensure that ownership of the document is shared across the region. However, a cut off point for amendments will be required to ensure authorities can all approve the same version. In line with 2.6 (above) there will be an opportunity to make amendments to the protocol through a regular review process to ensure that it is fit for purpose.

8.0 OTHER OPTIONS CONSIDERED

- 8.1 N/A

9.0 CONSULTATION

- 9.1 A briefing session was held for the Chair, Vice Chair and Party Spokespersons of the Coordinating Committee and the Families and Wellbeing Committee on 11th March to identify any issues and seek any clarifications. These are set out in support of this report as Appendix 3.

10.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 10.1 N/A

11.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 11.1 N/A

12.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

12.1 N/A

13.0 LEGAL IMPLICATIONS

13.1 The Council's Constitution requires amendment in order to give effect to the changes proposed in this report.

13.2 The Access to Information Regulations shall apply to any Joint Scrutiny Committee.

13.3 Where it is determined under the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside' that a proposed health service change covers two or more local authority areas, the Council will be delegating its health scrutiny to a joint health committee in accordance with and as determined by the said Protocol pursuant to The Local Authority (public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

14.0 EQUALITIES IMPLICATIONS

14.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(c) No because of another reason which is

The report is for information to Members and there are no direct equalities implications at this stage.

15.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

15.1 N/A

16.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

16.1 N/A

17.0 RECOMMENDATION/S

That the Committee:

17.1 Endorses the draft Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside set out Appendix 1 to this report

17.2 Recommends the Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside set out Appendix 1 to Annual Council on 9 June, for approval.

17.3 Recommends to Council that the Policy and Performance Co-ordinating Committee have delegated authority to amend and revise the Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside as considered appropriate and necessary.

17.3 Recommends to Annual Council on 9 June, that Article 6A as set out at Appendix 2 be included within the Council's Constitution.

18.0 REASON/S FOR RECOMMENDATION/S

18.1 For Members of the Policy and Performance Coordinating Committee to consider the draft Joint Health Scrutiny Protocol, provide appropriate feedback and refer this matter to full Council on 9 June.

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APPENDICES

Appendix 1 – Protocol for the establishment of joint health scrutiny arrangements for Cheshire and Merseyside

Appendix 2 – Proposed revision to the Constitution Article 6A - Joint Health Scrutiny Committee(s).

Appendix 3 – Additional clarifications in respect of the Protocol for the establishment of joint health scrutiny arrangements for Cheshire and Merseyside