



ADULT SOCIAL CARE AND PUBLIC HEALTH COMMITTEE

Tuesday, 14 June 2022

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

REPORT SUMMARY

In response to the proposed establishment of Integrated Care Systems in England under the Health and Care Act 2022, Chief Executives across Cheshire and Merseyside agreed to progress work to establish a standing Cheshire and Merseyside Joint Health Scrutiny Committee for an initial period 18 months with to Knowsley Borough Council as the lead local authority.

A Joint Health Scrutiny Working Group was established to draft the necessary documentation for the Standing Joint Health Scrutiny Committee, and the protocol for the Committee is attached at Appendix 1. As part of the work, it was proposed that the existing protocol for local Joint Health Scrutiny Committees be amended to accord with the new standing Joint Health Scrutiny Committee, and the revised protocol is attached at Appendix 2.

This report seeks the Committee's adoption of the two protocols for the establishment of Joint Health Scrutiny Committees, and nominations to serve on the Committees.

RECOMMENDATION/S

The Adult Social Care and Public Health Committee is recommended to:

- (1) adopt the Cheshire and Merseyside Integrated Care System Joint Health Scrutiny Committee protocol.
- (2) adopt the revised Joint Health Scrutiny Committee protocol.
- (3) authorise the Monitoring Officer as proper officer to carry out the wishes of the Group Leaders in allocating Members to membership of the Joint Health Scrutiny Committees detailed within the report and to appoint those Members with effect from the date at which the proper officer is advised of the names of such Members.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To ensure that Wirral Council is able to engage in effective Overview and Scrutiny of the Integrated Care System at a Cheshire and Merseyside Level.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Not to adopt the Joint Health Scrutiny Protocols. This would mean that Wirral Council would not be able to appoint to and engage in the Joint Health Scrutiny Committee.

3.0 BACKGROUND INFORMATION

Cheshire and Merseyside Integrated Care Services Joint Health Scrutiny Committee

- 3.1 In response to the proposed establishment of Integrated Care Systems in England under the Health and Care Act 2022, a briefing note was considered by Cheshire and Merseyside Chief Executives on 13 December 2021 outlining a number of recommended actions to ensure that joint health scrutiny arrangements in Cheshire and Merseyside are fit to meet the challenge of the new statutory Integrated Care System (ICS) arrangements.
- 3.2 At the time of consideration it was anticipated that actions would need to be taken prior to April 2022 to meet the government's anticipated timescale for transition to Integrated Care Systems. However, the government confirmed on 24 December 2021 that the transition to ICS arrangements would take place no earlier than July 2022. At the time of writing, the Health and Care Bill remains subject to parliamentary approval.
- 3.3 An officer working group was established to develop a protocol for the Standing Joint Health Scrutiny Committee, which has met on a fortnightly basis to agree the arrangements for the establishment of the Joint Health Scrutiny Committee. The Working Group has drafted a Joint Committee Arrangements document (Attached as Appendix 1) to outline how the standing joint committee will operate. The main features of the document are as follows:
- Funding – working group consensus was that a flat rate of £10,000 be paid by each authority (18 months)
 - Membership – working group agreed that each authority should nominate 2 representatives to serve on Committee.
 - Political balance – working group recognised the need to ensure that membership had to reflect the aggregate political balance across the nine authorities. This would be subject to annual calculation and would require compromise between the authorities to secure balance on each occasion.
 - Joint Committee remit – This would just cover the ICS responsibilities exercised at Cheshire and Merseyside level plus any proposals for changes in

health services that not only impact all nine areas but was also considered to be a substantial change by each of the nine.

3.4 The Working Group has also taken the opportunity to review and update the existing Joint Health Scrutiny Protocol (Attached at Appendix 2) to ensure that the framework for the operation of joint health scrutiny committees regarding substantial developments and variations of the health service across Cheshire and Merseyside was consistent with the arrangements for the new standing committee. Whilst it is anticipated that the Health and Care Act will remove the right of scrutiny to refer to the Secretary of State, the latest guidance indicates that any changes to these powers would not come into effect until 2023 at the earliest.

The proposed revisions relate to:

- Quorum – an increase to one third from one quarter to guarantee appropriate level of attendance.
- Political balance – to align the provisions within the protocol with those proposed to be adopted for the Standing Joint Committee.

3.5 The Joint Health Scrutiny Working Group will continue to meet over the coming weeks to progress other work in preparation for the Standing Joint Committee. This work includes drafting the procedure rules that the Committee will consider at its first meeting.

3.6 All elected members in the authorities will be entitled to serve on the joint committee other than executive members and those elected members appointed to serve on ICS bodies (e.g. on the Cheshire and Merseyside Health and Care Partnership). Each of the authorities nominating representatives to serve on the Joint Committee will be expected to do so in accordance with the political balance that applies in their respective authorities, adjusted to take account of the overall political balance across the nine authorities. The allocation of seats by both area and party based on two members per authority to secure overall political balance within Cheshire and Merseyside requires Wirral Council to appoint one Labour Councillor and one Conservative Councillor.

Joint Health Scrutiny Arrangements

3.6 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.

3.7 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.

3.8 Following the proposed establishment of the Standing Cheshire and Merseyside Joint Health Scrutiny Committee for all 9 authorities and the accompanying protocol, the existing protocol for Joint Health Scrutiny for between 2 and 8 authorities has been amended in order that it is in line with the new protocol. The revised protocol is attached at Appendix 2 and a summary of changes is listed at 3.9.

3.9

Section	Change
	References throughout the document to the right of scrutiny to refer to the Secretary of State will be retained for this year. Whilst it is expected that the new legislation will remove these powers, the latest guidance from CFGS indicated that any changes would not come into effect until 2023.
Section 4, Principles	Wording added to the last bullet point to reference 'impact on health staff' as a consideration.
Section 6.3, Membership	The inclusion of arrangements for achieving political balance in line with the arrangements for the new standing committee which will be politically balanced across all nine authorities. In practical terms this would mean that a calculation of political balance across all participating authorities would need to be carried out prior to any joint committee consisting of between 2 and 8 authorities. Membership would need to reflect the collective political balance of the participating areas. This would place the onus on the lead authority to do this calculation in each case.
Section 6.5, Quorum	Quorum to be 1/3 of the membership instead of 1/4, in line with the Standing Joint Health Scrutiny protocol
Section 6.7, Nomination of a Chair	The Chair being nominated from the host / lead authority be removed from the protocol in line with the Standing Joint Health Scrutiny protocol
Section 8	Reference to Scrutiny of the Cheshire and Merseyside Integrated Care System and the standing Joint Health Scrutiny Committee

3.10 The procedure for appointing members and declaring changes as 'substantial' are detailed within the protocol at Appendix 2.

3.11 Political Group Leaders are asked to appoint three members to the Joint Health Scrutiny Committee, politically balanced to accord with Wirral Council's proportionality. However, there is a requirement for the joint committee itself to be politically balanced, therefore depending on which other authorities are part of the Joint Committee, the members Wirral need to appoint may not accord with the political balance of the Council. Under these circumstances, Political Group Leaders would be asked to re-appoint based on the required political makeup of the Joint Committee.

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.
- 4.2 To support the Joint Health Scrutiny Committee, it is intended that a temporary Scrutiny Manager be appointed at a cost of £90k with each authority contributing £10k.

5.0 LEGAL IMPLICATIONS

- 5.1 Under The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 local authorities are required to establish a joint scrutiny committee for the purpose 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 a substantial development or variation to the health service in that area.

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 Officers across all 9 authorities in Cheshire and Merseyside have been involved in the development and updating of the Joint Health Scrutiny protocols.

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 the Committee to adopt a working protocol therefore there are no direct equality implications.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no direct environment and climate implications.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct Community Wealth implications.

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APPENDICES

Appendix 1: Protocol for the Standing Joint Health Scrutiny Arrangements for Cheshire and Merseyside

Appendix 2: 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
Partnerships Committee	13 January 2021 29 June 2021