

Report of the City Solicitor

Report to General Purposes Committee

Date: 4 March 2014

Subject: Reconfirming support for a Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) in relation to the new Congenital Heart Disease review

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

## Summary of main issues

A Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) – JHOSC – was initially established in March 2011 to consider and respond to the proposals arising from the Safe and Sustainable Review of Children's Congenital Cardiac Services in England.

Following a number of concerns raised about the proposals, on 12 June 2013, the Secretary of State for Health accepted in full, the findings and recommendations of the Independent Reconfiguration Panel and called a halt to the Safe and Sustainable Review process.

NHS England subsequently set out its intentions for a new review to consider the whole lifetime pathway of care for people with congenital heart disease (CHD) i.e. covering services to both children and adults.

Following the decision of the Secretary of State for Health to halt the previous review, the joint committee has continued to meet to maintain the momentum of its previous work.

However, as it is likely that the JHOSC will make recommendations to NHS England and other interested parties, which may include the Secretary of State for Health, it is advisable to reconfirm the mandate previously given by council and seek approval of the details set out in Appendix 1 for inclusion within the Council's Constitution.

## Recommendations

1. General Purposes Committee is asked to:
  - 1.1 Note the content and detail presented in this report.

1.2 Make the following recommendations to full Council:

- (a) That Council reconfirms its support for the establishment of a Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) in relation to NHS England's new review of Congenital Heart Disease services.
- (b) That Council delegates relevant functions, as set out in Appendix 1, that shall be exercisable by the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber), subject to such terms and conditions therein.
- (c) That Council asks the Scrutiny Board (Health and Wellbeing and Adult Social Care) to nominate a member from within its membership to sit on the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) in relation to the new review of Congenital Heart Disease services and, upon nomination, agrees to appoint such member to the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber).

## **1. Purpose of this report**

- 1.1 To ask the General Purposes Committee to consider and make recommendations to Full Council to reconfirm the mandate previously given by Council for the establishment of a Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) and subsequently delegate relevant functions in relation to the new review of Congenital Heart Disease services.

## **2. Background information**

- 2.1 A Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) – JHOSC – was initially established in March 2011 to consider the Safe and Sustainable Review of Children's Congenital Cardiac Services in England – the associated proposals and the impact on children and families across Yorkshire and the Humber. The JHOSC also acted as the appropriate scrutiny body across Yorkshire and the Humber in providing a response to the proposals and reconfiguration options presented for public consultation.

- 2.2 For the purpose of considering the Safe and Sustainable Review of Children's Congenital Cardiac Surgery and its impact on children and families across Yorkshire and the Humber, Leeds City Council (LCC) – through its Scrutiny Support Unit – led the process to establish the JHOSC during the second half of 2010. Subsequently, LCC has been supporting the work of the JHOSC since it was formally established in March 2011.

- 2.3 The membership for the JHOSC was made up of a single representative from each of the following 15 top-tier local authorities (i.e. those with specific health scrutiny powers) across Yorkshire and the Humber:

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| • Barnsley MBC                     | • Kirklees Council                |
| • Calderdale Council               | • Leeds City Council              |
| • City of Bradford MDC             | • North East Lincolnshire Council |
| • City of York Council             | • North Lincolnshire Council      |
| • Doncaster MBC                    | • North Yorkshire County Council  |
| • East Riding of Yorkshire Council | • Rotherham MBC                   |
| • Hull City Council                | • Sheffield City Council          |
|                                    | • Wakefield Council               |

- 2.4 At that time, the terms of reference identified that JHOSC's work would specifically include consideration of the:

- Review process and formulation of options presented for consultation;
- Projected improvements in patient outcomes and experience;
- Likely impact on children and their families (in the short, medium and longer-term), in particular in terms of access to services and travel times;
- Views of local service users and/or their representatives;
- Potential implications and impact on the health economy and the economy in general, on a local and regional basis;
- Any other pertinent matters that arise as part of the Committee's inquiry.

- 2.5 As the administering authority, arrangements for the JHOSC were made in accordance with Leeds City Council's Scrutiny Procedural Rules.

- 2.6 Following a decision on the proposed future model of care and designation of surgical centres in July 2012, the JHOSC made a referral to the Secretary of

State for Health in November 2012. This referral was made on the basis that the proposed changes would not be in the best interests of local NHS services and was subsequently passed to the Independent Reconfiguration Panel (IRP) for consideration and advice.

- 2.7 The IRP's advice and recommendations were set out in its report to the Secretary of State for Health at the end of April 2013. On 12 June 2013, an announcement from the Secretary of State for Health accepted the IRP's report and recommendations in full and called a halt to the Safe and Sustainable Review of Children's Congenital Cardiac Services in England.
- 2.8 The Secretary of State for Health then invited NHS England – as the new body responsible for commissioning specialised services following the restructuring arrangements across the NHS that came into force from 1 April 2013 – to report how it intended to proceed by the end of July 2013.

### **3 Main issues**

#### **3.1 New review of congenital heart disease (CHD) services**

- 3.1.1 Following the decision of the Secretary of State for Health to halt the previous review, the joint committee has continued to meet to maintain the momentum of its previous work.
- 3.1.2 At its meeting in September 2013 the JHOSC considered the Secretary of State's decision alongside the report of the Independent Reconfiguration Panel (IRP) and was advised of NHS England's intentions for the new review to consider the whole lifetime pathway of care for people with congenital heart disease (CHD) i.e. covering services to both children and adults.
- 3.1.3 Members of the JHOSC expressed support for the work of the JHOSC to continue, insofar as it relates to the new CHD review, and specifically highlighted a number of points, including:
  - The strength of joint scrutiny arrangements across Yorkshire and the Humber, vis-à-vis the Safe and Sustainable review and proposals, was clearly evident in the Secretary of State's announcement in June 2013.
  - That the new CHD review would benefit from similar robust scrutiny arrangements as those in place for the Safe and Sustainable review.
  - Concern regarding the likely timescales for the new review and the processes necessary for agreeing revised terms of reference across fifteen constituent local authorities.
- 3.1.4 It was clarified at that meeting that while it would not be necessary to formally dissolve the JHOSC, in order to place the governance arrangements for the JHOSC on a firmer footing – insofar as its work relates to the new CHD review – the existing terms of reference for the JHOSC would need to be revised to reflect the changed approach and scope of the new review of CHD services. It was also confirmed that any revised terms of reference may then need approval from the constituent local authority members.
- 3.1.5 Revised terms of reference / an outline work plan associated with the new review of CHD services was agreed by the JHOSC at its meeting in December

2013, and these details are available on request. Nonetheless, as it is likely that the JHOSC will make recommendations to NHS England and other interested parties, which may include the Secretary of State for Health, it is advisable to reconfirm the mandate previously given by council and approve the details set out in Appendix 1 for inclusion within Section 4 (Joint Arrangements) of the Council's Constitution.

## **4 Corporate Considerations**

### Consultation and Engagement

- 4.1 In September 2013, Members of the JHOSC expressed broad support for the work of the JHOSC to continue insofar as it relates to the new CHD review. Revised draft terms of reference were presented and subsequently agreed at the JHOSC meeting in December 2013.
- 4.2 Discussions are continuing with other constituent authorities regarding the processes necessary to reconfirm commitment to the refocused work of the JHOSC.

### Equality and Diversity/Cohesion and Integration

- 4.3 There are no specific equality and diversity or cohesion and integration specifically associated with this report. However, although not a decision-making body, as a local authority joint committee the JHOSC will have to have a general regard of public sector equality duties.
- 4.4 In particular, the JHOSC will consider the impact of any future reconfiguration and future service model proposals on specific populations and communities across Yorkshire and the Humber. This will be alongside the general health and equality impacts arising from the new review and in particular, the comparison with existing provision and service configuration. This was a key feature of the JHOSC's previous work.

### Resources and value for money

- 4.5 As the administering authority, day-to-day support for the work of the JHOSC will continue to be provided through the Council's Scrutiny Support Unit. This has been the case since the JHOSC was established in March 2011 when considering the Safe and Sustainable Review of Children's Congenital Cardiac Services in England.
- 4.6 However, in recognition of the unprecedented level of support already provided to the work of the JHOSC and a view from its members that the new congenital heart disease services review would benefit from similar robust scrutiny arrangements as those in place for the Safe and Sustainable review, all constituent authorities have been invited to make a small financial contribution of £1000 per authority for the financial year 2014/15.

### Legal Implications, Access to Information and Call In

- 4.7 Under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, two or more local authorities may appoint a joint overview and scrutiny committee of those authorities and arrange for relevant functions to be exercisable by the joint committee, subject to such terms and conditions as the authorities may consider appropriate. As the proposed terms of reference below for the JHOSC include discharging the authorities' functions under Regulation 23, this means that the authorities

cannot report to the Secretary of State themselves if they are dissatisfied with the consultation on the new review of CHD services or if they consider the proposals are not in the interests of the health service in their areas.

- 4.8 Where a health body is required to consult with more than one authority in relation to a proposal for a substantial development of the health service or for a substantial variation in the provision of such a service, those authorities must appoint a joint overview and scrutiny committee for those purposes, and the powers to make comments on proposals consulted on, require information, and require witnesses can only be exercised by that joint committee.
- 4.9 Subject to the matters mentioned in 4.7 and 4.8 above, the usual statutory rules relating to overview and scrutiny committees will apply to the JHOSC.
- 4.10 This report does not contain any exempt or confidential information and, as the matters contained in this report relate to Council functions, it is not subject to call-in.

#### Risk Management

- 4.11 The main risk relates to the timely contribution of the JHOSC's work are part of the new review of CHD services. This risk forms part of the day-to-day support for the work of the JHOSC and will be broadly mitigated through the development of a forward work programme.

## **5 Conclusions**

- 5.1 The previous work of the JHOSC, insofar as it relates to the Safe and Sustainable Review of Children's Congenital Cardiac Services in England, is well known and has been well documented to date.
- 5.2 There is clear support from constituent authorities for the work of the JHOSC to continue and for the new review of CHD services to benefit from similar robust scrutiny arrangements as those established for the Safe and Sustainable review.
- 5.3 As the administering authority, Leeds City Council – through its Scrutiny Support Unit – is committed to continuing to provide day-to-day support for the JHOSC and constituent authorities have been invited to make a relatively small financial contribution for the financial year 2014/15.
- 5.4 At this relatively early stage in the new CHD review, it is appropriate to provide Council with an opportunity to reconfirm its support for the JHOSC and its refocused terms of reference.

## **6 Recommendations**

- 6.1 General Purposes Committee is asked to:
  - 6.1.1 Note the content and detail presented in this report.
  - 6.1.2 Make the following recommendations to full Council:
    - (a) That Council reconfirms its support for the establishment of a Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) in relation to NHS England's new review of Congenital Heart Disease services.

- (b) That Council delegates relevant functions, as set out in Appendix 1, that shall be exercisable by the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber), subject to such terms and conditions therein.
- (c) That Council asks the Scrutiny Board (Health and Wellbeing and Adult Social Care) to nominate a member from within its membership to sit on the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) in relation to the new review of Congenital Heart Disease services and, upon nomination, agrees to appoint such member to the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber).

## **7 Background documents<sup>1</sup>**

7.1 None used

---

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## SECTION 4 - JOINT ARRANGEMENTS

The **Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber)** is a joint committee appointed under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218 and is authorised to discharge the following health overview and scrutiny functions of the authority<sup>2</sup>, insofar as they relate to NHS England's new review of Congenital Heart Disease services:

- a) To review and scrutinise any matter relating to the planning, provision and operation of the health service in its area, pursuant to Regulation 21 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013
- b) To make reports and recommendations on any matter it has reviewed or scrutinised, and request responses to the same pursuant to Regulation 22 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- c) To comment on, make recommendations about, or report to the Secretary of State in writing about proposals in respect of which a relevant NHS body or a relevant health service provider is required to consult, pursuant to Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- d) To require a relevant NHS body or relevant health service provider to provide such information about the planning, provision and operation of the health service in its area as may be reasonably required in order to discharge its relevant functions, pursuant to Regulation 26 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- e) To require any member or employee of a relevant NHS body or relevant health service provider to attend meetings to answer such questions as appear to be necessary for discharging its relevant functions, pursuant to Regulation 27 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

Member Authorities:

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| • Barnsley MBC                     | • Kirklees Council                |
| • Calderdale Council               | • Leeds City Council              |
| • City of Bradford MDC             | • North East Lincolnshire Council |
| • City of York Council             | • North Lincolnshire Council      |
| • Doncaster MBC                    | • North Yorkshire County Council  |
| • East Riding of Yorkshire Council | • Rotherham MBC                   |
| • Hull City Council                | • Sheffield City Council          |
|                                    | • Wakefield Council               |

Reference to more specific details:

<http://democracy.leeds.gov.uk/ieListMeetings.aspx?CId=793&Year=0>

---

<sup>2</sup> In accordance with regulations issued under Section 244 National Health Service Act 2006 (the regulations)