

## Local Authority Health Scrutiny

Date: 15<sup>th</sup> June 2021

Report of: Head of Democratic Services

Report to: Scrutiny Board (Adults, Health and Active Lifestyles)

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### **What is this report about?**

**Including how it contributes to the city's and council's ambitions**

- Local Authority Health Scrutiny was first introduced by the Health and Social Care Act 2001 and is a fundamental way by which democratically elected local councillors are able to voice the views of their constituents, and hold relevant NHS bodies and relevant health service providers to account.
- The Scrutiny Board (Adults, Health and Active Lifestyles) has been assigned to fulfil the council's health scrutiny function and therefore has a specific remit / responsibility in relation to reviewing and scrutinising any matter relating to the planning, provision and operation of local health services.
- NHS Commissioners and Service Providers also have a duty to consult local authorities (through the health scrutiny function) where any proposal is under consideration for a substantial development of the health service or a substantial variation in the provision of such a service in the local authorities area.
- This report therefore presents further information and guidance to assist the Scrutiny Board (Adults, Health and Active Lifestyles) in undertaking its specific health scrutiny role.

### **Recommendations**

Members are requested to consider and discuss the information and guidance presented within this report.

## Why is the proposal being put forward?

1. The Scrutiny Board (Adults, Health and Active Lifestyles) has been assigned to fulfil the council's statutory health scrutiny function and this report presents further information and guidance to assist the Board in undertaking this specific role.
2. In June 2014, the Department of Health published its 'Local Authority Health Scrutiny' guidance to support local authorities and partners deliver effective health scrutiny. A copy of this guidance is therefore appended to this report for Members' information (see Appendix 1).

### Health Service Developments Working Group

3. The Health and Social Care Act (2012) reinforced the duty of NHS Commissioners and Service Providers to make arrangements to involve and consult patients and the public in:
  - Planning service provision;
  - The development of proposals for changes; and,
  - Decisions about changes to the operation of services.
4. In accordance with Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the requirement to consult on service changes and/or developments also includes a duty to consult local authorities (through the health overview and scrutiny function) where any proposal is under consideration for:
  - a substantial development of the health service; or,
  - a substantial variation in the provision of such a service in the local authorities area.
5. Such a duty does not apply to any proposals on which the responsible NHS body is satisfied that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. However, the Regulations state that the authority must still be notified immediately of the decision taken and the reason why no consultation has taken place.
6. The levels of service variation and/or development are not specifically defined in legislation and it is widely acknowledged the term 'substantial variation or development of health services' is subjective. Commissioners and providers are therefore advised to approach the local authority's health scrutiny function when proposals are first being considered to discuss and reach a view on whether the change proposed is substantial, as well as determining appropriate next steps.
7. To assist in this process, a Health Service Developments Working Group has previously been established to offer an environment that allows early engagement with the Scrutiny Board regarding proposed developments and/or changes to local health services.
8. It is recommended that similar arrangements are established for the current municipal year (2021/22). Draft terms of reference surrounding the Health Service Developments Working Group are therefore attached for consideration (see Appendix 2) and the views of Members during today's meeting will inform the position for approval at the Board's next formal meeting.

### Joint Health Scrutiny

9. As explained within the Department of Health guidance document, Regulation 30 of the Local Authority (Public Health, Health and wellbeing boards and Health Scrutiny) Regulations 2013 requires local authorities to appoint mandatory joint health scrutiny

committees where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about substantial reconfiguration proposals.

10. In Yorkshire and the Humber, a protocol was established between the 15 upper tier local authorities for establishing a joint health scrutiny committee where proposed changes affect more than one local authority area. Joint health scrutiny committees may also be established to consider other issues of mutual interest.
11. Under Regulation 30, local authorities may also appoint a discretionary joint health scrutiny committee to carry out all or specified health scrutiny functions, for example health scrutiny in relation to health issues that cross local authority boundaries. Establishing a joint committee of this kind does not prevent the appointing local authorities from separately scrutinising health issues. However, it is recognised that there are likely to be occasions on which a discretionary joint committee is the best way of considering how the needs of a local population, which happens to cross council boundaries, are being met.
12. In November 2014, the chairs of the five West Yorkshire Councils health overview and scrutiny committees agreed to pursue establishing a discretionary joint health overview and scrutiny committee and in November 2015, Leeds City Council agreed to join other West Yorkshire authorities in making joint arrangements and approving terms of reference for a discretionary West Yorkshire Joint Health Overview and Scrutiny Committee (JHOSC). The original terms of reference for this Committee are set out in Appendix 3 for Members' information.

#### Changes to the working arrangements of the JHOSC

13. The JHOSC still exists and formally consists of Leeds, Bradford, Calderdale, Kirklees and Wakefield Councils. However, the working arrangements of this joint committee now maintains oversight for the developing West Yorkshire and Harrogate Health and Care Partnership across a range of programme areas and other matters.
14. For some time, North Yorkshire County Council has routinely been invited to attend and actively participate in meetings of the Joint Committee and was formally appointed as a co-opted member in 2018/19.
15. Membership of the JHOSC currently consists of two members from the relevant scrutiny committee within each constituent local authority. Leeds' representatives on the JHOSC have been the Chair and another member of the Scrutiny Board (Adults, Health and Active Lifestyles). Historically this position has been filled by a Scrutiny Board Member representing the council's largest opposition political group.
16. During 2020/21, the support resource for the JHOSC moved to the remit of colleagues at Calderdale Council, with the Chair of Leeds Scrutiny Board (Adults, Health and Active Lifestyles) continuing as Chair until February 2021. The JHOSC will appoint a new Chair from its membership at its first meeting of 2021/22.
17. The Scrutiny Board is asked to note the current JHOSC arrangements and to consider the Board's representatives for this municipal year (2021/22), while also recognising that such arrangements may be subject to further review linked to forthcoming legislative proposals for a new Health and Care Bill, as referenced below. The views of Members during today's meeting will inform the position for approval at the Board's next formal meeting.

## Legislative proposals for a new Health and Care Bill

18. In March this year, the JHOSC held a workshop with colleagues from the Health and Care Partnership to discuss the Department of Health and Social Care's legislative proposals for a Health and Care Bill – “Integration and Innovation: working together to improve health and social care for all”. Moving forward, the Authority will continue to participate in the function of the JHOSC and work alongside the Health and Care Partnership as the proposals for a new Integrated Care System for West Yorkshire continue to develop, which will also include a key focus on the potential future role of scrutiny as part of that new system. While the Scrutiny Board (Adults, Health and Active Lifestyles) will continue to be kept up-to-date on the work being undertaken by the JHOSC, this does not preclude the Board from undertaking its own work surrounding such legislative changes should it wish to do so.

### **What impact will this proposal have?**

**Wards affected: All**

Have ward members been consulted?       Yes       No

19. This report presents information and guidance to assist the Scrutiny Board (Adults, Health and Active Lifestyles) in undertaking its specific health scrutiny role.

### **What consultation and engagement has taken place?**

20. The terms of reference of the West Yorkshire Joint Health Overview and Scrutiny Committee and draft terms of reference of the Health Service Development Working Group and, as appended to this report, have been informed by earlier engagement work undertaken with the Scrutiny Board.

### **What are the resource implications?**

21. This report has no specific resource implications.

### **What are the legal implications?**

22. The Scrutiny Board (Adults, Health and Active Lifestyles) has been assigned to fulfil the council's statutory health scrutiny function and this report presents further information and guidance to assist the Board in undertaking this specific role.

### **What are the key risks and how are they being managed?**

23. This report has no risk management implications.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

24. Health scrutiny should be outcome focused, looking at cross-cutting issues, including general health improvement, wellbeing and how well health inequalities are being addressed, as well as specific treatment services.

## **Appendices**

25. Appendix 1 - Department of Health 'Local Authority Health Scrutiny' guidance (June 2014).
26. Appendix 2 - Health Service Developments Working Group Draft Terms of Reference for the current municipal year (2021/11).
27. Appendix 3 - West Yorkshire Joint Health Overview and Scrutiny Committee Terms of Reference (2015)

## **Background papers**

28. None.