

Report of City Solicitor

Report to General Purposes Committee

Date: 30 August 2019

Subject: Establishing a North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee (Vascular Services)

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

1. Purpose of this report

- 1.1 The purpose of this report is to ask the General Purposes Committee to consider and make recommendations to Full Council to:
- (a) Appoint a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee Joint Health Overview and Scrutiny Committee;
 - (b) Delegate relevant functions (in accordance with the Committee's terms of reference), as set out in Appendix 1 of this report; and,
 - (c) Appoint members to the new committee from the Council's Scrutiny Board (Adults, Health and Active Lifestyles).

2. Background information

- 2.1 The Local Authority (Public health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (the Regulations) provide for NHS bodies to consult with the appropriate local authorities where there are any proposed substantial developments or variations in the provisions of health services in the area(s) of a local authority under consideration.

- 2.2 In consulting with the appropriate local authorities, NHS bodies must provide the:
- (a) Proposed date by which a decision as to whether or not to proceed with the proposal is intended to be taken; and,
 - (b) Date by which the appropriate local authority must provide any comments on the proposed development or variation in the provision of health services.
- 2.3 In addition, NHS bodies must:
- (a) Inform the local authority of any changes to the proposed dates (set out in paragraph 2.2 (above)); and,
 - (b) Publish the proposed dates and any subsequent changes to those dates.

Joint overview and scrutiny committees

- 2.4 The Regulations also make provision for two or more local authorities to appoint a (discretionary) joint committee to discharge relevant health scrutiny functions from those local authorities, subject to any terms and conditions considered appropriate.
- 2.5 Where NHS bodies consult more than one local authority in relation to a specific proposed substantial development or variation in the provision of health services, those local authorities must appoint a (mandatory) joint overview and scrutiny committee for the purposes of the consultation.
- 2.6 In those circumstances, it is only the established joint overview and scrutiny committee that may:
- (a) Make comments on the proposal under consideration.
 - (b) Require the provision of information about the proposal under consideration; or
 - (c) Require a member or employee of the relevant NHS body to attend before it to answer questions in connection with the consultation and the proposal under consideration.

3. Main issues

- 3.1 NHS England (Specialised Commissioning) has advised the Chair of the Scrutiny Board (Adults, Health and Active Lifestyles) that it has under consideration proposed changes to regional vascular services; and is likely to propose a service change that will see the development of a single regional service for specialised vascular care across West Yorkshire. This is likely to be based on a model of two dedicated arterial centres.
- 3.2 Due to existing patient flows, the proposals are likely to involve some movement of patient activity across West Yorkshire and have some implications for patients across some areas of North Yorkshire.
- 3.3 NHS England (Specialised Commissioning) has identified these proposed changes are likely to be substantial; therefore the affected local authorities are required to appoint a (mandatory) joint overview and scrutiny committee for the purposes of this consultation. The affected local authorities being:
- Bradford Council
 - Calderdale Council
 - Kirklees Council
 - Leeds City Council

- North Yorkshire County Council
- Wakefield Council

- 3.4 NHS England (Specialised Commissioning) have advised Chairs of other Health Overview and Scrutiny Committees across West Yorkshire and North Yorkshire authorities of the details set out above in paragraphs 3.1.to 3.3.
- 3.5 Proposed terms of reference for a North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee (Vascular Services) have been developed in conjunction with each of the relevant authorities. These proposed terms of reference are presented at Appendix 1.
- 3.6 It should be noted that at the time of writing this report, the following details have not yet been confirmed:
- The exact timing of any planned public consultation;
 - The date by which NHS England (Specialised Commissioning) plans to make a decision as to whether or not to proceed with the proposal; and,
 - The date by which any comments on the proposed changes must be made.
- 3.7 By appointing to a (mandatory) joint overview and scrutiny committee at this time, it allows those affected local authorities to remain agile and respond quickly when required to do so.
- 3.8 It is proposed that each participating authority appoints two members to the JHOSC.
- 3.9 In terms of Leeds City Council representatives, it is proposed to seek Council approval for the appointment of two members from the Scrutiny Board (Adults, Health and Active Lifestyles) – one being the Chair of the Scrutiny Board and the other being a representative of the main opposition group. This provides political balance to the Council’s appointment.

Power of Referral

- 3.10 In certain circumstances, local authorities may refer proposals for substantial developments or variations to the Secretary of State. Such circumstances are where a health scrutiny body considers:
- It is not satisfied with the adequacy of content of the consultation.
 - It is not satisfied that sufficient time has been allowed for consultation.
 - It considers that the proposal would not be in the interests of the health service in its area.
 - It has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate.
- 3.11 It should be noted that any referral to the Secretary of State is considered to be an exceptional action; exercised only after attempts to resolve any matters locally have been exhausted. This includes allowing reasonable time for NHS bodies to address and mitigate concerns expressed by health scrutiny bodies.
- 3.12 Health scrutiny bodies are required to advise NHS bodies of the intention to exercise the ‘power of referral’ and the associated timescales. In making a referral to the Secretary of State, health scrutiny bodies must provide:

- An explanation of the proposal to which the report relates.
- An explanation of the reasons for making the referral.
- Evidence in support of the reasons for the referral.
- Where the proposal is referred because of inadequate consultation, the reasons why the health scrutiny body is not satisfied of its adequacy.
- Where the proposal is referred because there was no consultation (for reasons relating to safety or welfare of patients or staff), reasons why the health scrutiny body is not satisfied that the reasons given for the lack of consultation are adequate.
- Where the health scrutiny body believes that proposals are not in the interests of the health service in its area, a summary of the evidence considered, including any evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health service in the area.
- An explanation of any steps that the health scrutiny body has taken to try to reach agreement with the relevant NHS body.
- Evidence that the health scrutiny body has complied with the general requirements when considering proposals for substantial changes or development of services. .

Joint committees and the power of referral

- 3.13 Where joint health overview and scrutiny committee arrangements are being established; the delegation of the power of referral is a discretionary element to be determined by each participating local authority. The terms or scope of that delegation is also determined by each participating local authority.
- 3.14 Once delegated to a joint committee, the power of referral (within the agreed terms or scope) cannot then be exercised by any of the individual local authorities that has delegated that function.
- 3.15 It should be noted that only one participating local authority has to delegate its power of referral for that to be exercisable by an established joint committee.
- 3.16 In circumstances where a participating local authority retains its power of referral; should a situation arise whereby that participating authority subsequently seeks to make a referral to the Secretary of State, that authority must comply with the relevant elements of the regulations associated with making such referrals – as detailed in paragraph 3.12 above.
- 3.17 It is proposed to delegate the Council’s power of referral to the North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee (Vascular Services), in line with the proposed terms of reference presented at Appendix 1.

Support arrangements

- 3.18 There are a number examples of a collaborative approach being taken across West Yorkshire and across Yorkshire and the Humber in relation to proposed health service developments of changes in provision.
- 3.19 Where other joint health overview and scrutiny arrangements have been established, a lead authority has been identified to Chair those joint committees and to provide the necessary support arrangements on behalf of all the participating authorities. The lead authority has tended to be identified by agreement between the participating authorities as the authority most affected by the proposals – in terms of the physical location of services and/or where local populations are most likely to be impacted by the proposals.

- 3.20 In establishing the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee (Vascular Services), it is proposed to adopt a similar approach to identifying the lead authority through collective discussion with all the participating local authorities.
- 3.21 The lead authority is likely to be influenced by the precise nature of the proposals, once these are received from NHS England (Specialised Commissioning).
- 3.22 The proposed terms of reference do not cover matters of procedure. However, for transparency, it is possible that one of the first items for the mandatory JHOSC to consider could be the procedure rules to be adopted. These would likely be those of the authority taking the lead in terms of chairing and supporting the JHOSC.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 The following members have been consulted on the proposed arrangements and terms of reference for the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee:

- The Leader of Council
- The Deputy Leader of Council / Executive Member for Resources
- The Executive Member for Health, Wellbeing and Adults.
- The Chair of Scrutiny Board (Adults, Health and Active Lifestyles)
- Group Leaders

4.1.2 Feedback to date suggests those consulted are content with the details set out in this report, the proposed terms of reference and associated arrangements.

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no implications arising from this report and the proposed establishment of a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee. Any specific implications associated with the proposed service changes will be considered by the joint committee – once established.

4.3 Council policies and best council plan

4.3.1 There are no implications arising from this report and the proposed establishment of a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee. Any specific implications associated with the proposed service changes will be considered by the joint committee – once established.

Climate emergency

4.3.2 Establishing a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee for the purposes set out at Appendix 1, will reduce the need to attend meetings across each of the participating local authorities

(also set out at Appendix 1) – thus reducing the potential number of meetings and associated use of natural resources.

4.3.3 Any specific climate emergency implications associated with the proposed service changes will be considered by the joint committee – once established

4.4 Resources and value for money

4.4.1 Resources to support the work of the mandatory JHOSC will be provided from within the existing establishment and support arrangements across the participating local authorities – set out at Appendix 1.

4.5 Legal implications, access to information, and call-in

4.5.1 The legal framework and regulations associated with the establishment of a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee are set out elsewhere in this report.

4.5.2 There are no specific access to information implications arising from the report. As a council function the decision is not eligible for Call In.

4.6 Risk management

4.6.1 As set out elsewhere in the report, by delegating the power to refer matters to the Secretary of State to the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee, this function cannot then be exercised by Council or its committees in relation to those specific matters set out at Appendix 1.

5. Recommendations

5.1 General Purposes Committee is asked to:

5.1.1 Note the content and details presented in this report.

5.1.2 Make the following recommendations to full Council:

- That Council resolves to appoint a mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee together with the authorities set out at Appendix 1
- That Council approves the terms of reference for the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee set out at Appendix 1
- That Council delegates relevant functions, as set out in Appendix 1, which shall be exercisable by the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee, subject to the terms and conditions specified.
- That Council agrees to appoint the following members from the Council's Scrutiny Board (Adults, Health and Active Lifestyles) be appointed as the Council representatives to serve on the mandatory North Yorkshire and West Yorkshire Joint Health Overview and Scrutiny Committee:

- Councillor Helen Hayden and Councillor Graham Latty.

6. Background documents¹

6.1 None

¹ 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.

North Yorkshire and West Yorkshire
Mandatory Joint Health Overview and Scrutiny Committee
(Vascular Services)
Terms of Reference

The North Yorkshire and West Yorkshire Mandatory Joint Health Overview and Scrutiny Committee (the JHOSC) is a joint committee appointed under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218.

The participating authorities are:

- Bradford Council
- Calderdale Council
- Kirklees Council
- Leeds City Council
- North Yorkshire County Council
- Wakefield Council

The participating authorities authorise the JHOSC to discharge the following overview and scrutiny functions in relation to the planning, provision, operation and delivery of vascular services across the footprint of the joint committee:

- Receive and consider the relevant NHS body consultation² proposals related to the substantial development / variation in the provision of vascular services; and in particular review and scrutinise:
 - Any matter relating to the planning, provision, operation and delivery of vascular services and specifically (but not exclusively) consider and take account of the:
 - Impact of the proposals on patients, patients families and the public;
 - Views of local people, service users and/or their representatives;
 - Impact on the local health economies and the local economies in general, including any financial implications.
 - The arrangements made by relevant NHS bodies to secure patient access to appropriate hospital and community services, associated with vascular services, including the quality and safety of such services.
 - How the proposed changes to vascular services support the delivery of local Health and Wellbeing Strategies across the footprint of the joint committee and improving both the health of the local populations and the provision of health care services to that population.
 - The arrangements made by relevant NHS bodies for consulting and involving patients and the public regarding the proposed changes to vascular services.

² Any informal question raised by an NHS body or health service provider as to whether a proposed development or variation is in the opinion of an authority substantial; or whether a proposed development or variation will have an impact on the health service in the area of an authority will be a matter for individual participating authorities to respond to.

- Require the provision of all relevant information associated with vascular services, as identified by the Joint Committee.
- Require a member or employee of a relevant NHS body to attend before the Joint Committee to answer questions in connection with the planning, provision, operation and delivery of vascular services, including consultation on the proposed changes.
- Prepare and make comments / recommendations on the proposed changes to vascular services consulted on.
- Make recommendations on the proposed changes to vascular services to:
 - Any of the participating local authorities represented on the Joint Committee;
 - Relevant NHS bodies (including relevant health service providers); and,
 - Any other relevant bodies identified by the Joint Committee.
- Receive notice of any disagreement from relevant NHS bodies and to take reasonable steps to resolve such disagreement.
- Prepare and present a report and recommendations to the Secretary of State on the proposed changes to vascular services across the footprint of the joint committee (subject to agreement of all participating local authorities).