

## Local Authority Health Scrutiny – additional guidance

Date: 20 September 2022

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

- At its meeting in June 2022, the Scrutiny Board was made aware of some of the specific health scrutiny implications arising from the Health and Care Act 2022, and likely impact on the future work of the Scrutiny Board.
- It was also outlined that further guidance around the implementation of the Health and Care Act 2022, and the associated working arrangements, was expected and a commitment given to keep the Board updated with further developments as they progressed.
- In late July 2022, the Department of Health and Social Care (DHSC) published a range of guidance notes, including [guidance on health scrutiny principles](#).
- In advance of the statutory guidance on the Secretary of State's new powers in relation to service reconfigurations, the guidance sets out expectations on how integrated care boards (ICBs), integrated care partnerships (ICPs) and local authority health overview and scrutiny committee (HOSC) arrangements will work together to ensure that new statutory system-level bodies are locally accountable to their communities. This report highlights some of the main features from that guidance.
- This report also identifies a range of other, additional guidance issued at that time of publishing details on health scrutiny principles:

### Recommendations

The Scrutiny Board (Adults, Health and Active Lifestyles) is recommended to:

- (1) Note the content of this report, the guidance on health scrutiny principles and its main features, in particular:
  - a. The confirmed, and continuing role of local authority health scrutiny as part of the changing landscape of Integrated Care Boards (ICBs) and Integrated Care Partnerships (ICPs).
  - b. The benefits of effective and proactive local authority health scrutiny arrangements.
  - c. The guiding principles to help ensure the delivery of the benefits of effective and proactive local authority health scrutiny arrangements.

- d. Confirmation that the design of new models of integrated care and support being introduced through the Health and Care Act 2022 will inevitably lead to changes in how and where services are provided.
- e. The need to ensure balance between maintaining oversight of the effectiveness of ICB-level plans and strategies (currently undertaken through the West Yorkshire Joint Health Overview and Scrutiny Committee) and local place-based scrutiny activity.
- f. The timeliness for reviewing the terms of reference for the discretionary West Yorkshire Joint Health Overview and Scrutiny Committee, subject to the necessary decision-making arrangements of the constituent local authorities, and any supporting processes and protocols.

(2) Request that further details and local implications associated with the other Department of Health and Social Care guidance, highlighted in this report, be incorporated into the update on the local Integrated Care Board, currently scheduled for the Board's October meeting.

## 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 builds on previously provided information and guidance to assist the Board in undertaking this specific role.
2. At its meeting in June 2022, the Scrutiny Board was made aware of some of the specific health scrutiny implications arising from the Health and Care Act 2022, and likely impact on the future work of the Scrutiny Board.
3. It was also outlined that further guidance around the implementation of the Health and Care Act 2022, and the associated working arrangements, was expected and a commitment given to keep the Board updated with further developments as they progressed.
4. In late July 2022, the Department of Health and Social Care (DHSC) published a range of guidance notes, including [guidance on health scrutiny principles](#). This report highlights some of the main features from that guidance.
5. This report also identifies a range of other, additional guidance issued at that time of publishing details on health scrutiny principles

### Health Overview and Scrutiny Principles

6. On 29 July 2022, the Department of Health and Social Care (DHSC) published a range of guidance notes, including [guidance on health scrutiny principles](#), that in advance of the statutory guidance on the Secretary of State's new powers in relation to service reconfigurations, sets out expectations on how integrated care boards (ICBs), integrated care partnerships (ICPs) and local authority health overview and scrutiny committee (HOSC) arrangements will work together to ensure that new statutory system-level bodies are locally accountable to their communities.
7. The guidance is aimed at a broad range of key stakeholders, specifically highlighting that, *'Leaders from across health and social care should use these principles to understand the importance of oversight and scrutiny in creating better outcomes for patients and service users and ensure that they are accountable to local communities.'*
8. The new guidance references the ['Local Authority Health Scrutiny' \(June 2014\)](#) guidance and confirms this guidance will continue to apply, although the formal statutory route for local authorities to report to the Secretary of State (power of referral) will be removed when the new reconfiguration provisions in the Health and Care Act 2022 take effect. The 2014 guidance was presented to the Board at its meeting in June 2022, alongside notification that the 'power of referral' would cease once the operating arrangements for the Secretary of State's intervention powers had been established and formalised, with the accompanying guidance.
9. Other powers of the Health Overview and Scrutiny Committees (HOSCs) are largely unaffected by the Health and Care Act 2022. The guidance emphasises this and summarises the powers – which are reflected in the Scrutiny Board's Terms of Reference that were presented and confirmed to the Board in June 2022.

### Benefits of proactive and constructive scrutiny

10. The guidance confirms the ongoing role of health scrutiny (alongside health and wellbeing boards (HWBs) and the local Healthwatch) within the new landscape of ICBs and ICPs,

and re-emphasises the following benefits of proactive and constructive scrutiny for all stakeholders:

- Delivering better outcomes for local people and communities; the people who represent them, and the commissioners and providers of local health and care services.
- Offering opportunities for local people and their elected representatives to contribute to and comment on the local priorities for improving health and care services and outcomes.
- Providing a voice to local people and communities on the quality, safety, accessibility and effectiveness of local health and care services.
- Assuring locally elected members and the public that health and care services are safe and effective, address local health priorities and reduce health inequalities.
- Helping health and care providers and commissioners gain insight into the health needs and concerns of particular groups and communities – including those seldom heard.
- Enabling health and care providers and commissioners to more effectively develop new services and care pathways to address local health priorities.

#### Framework for being effective, focused and adding value

11. To help ensure scrutiny work is effective, focused and adds value, the guidance recommends that, as well as being informed by other partners in the local health and care system, individual HOSCs develop a framework based on the assessment of risks, effects and impacts. For example:
  - Risks, effects and impacts to individual populations
  - Risks, effects and impacts to the whole local population
  - Support and input from local health colleagues
12. Currently in Leeds, all Scrutiny Boards determine and manage their own work schedule for the municipal year. Work schedules are largely informed by initial discussions with key partners at the beginning of each municipal year – including relevant Executive Members, Directors and local NHS bodies (commissioners and providers). There is also ongoing dialogue with Healthwatch Leeds – which is also represented on the Scrutiny Board through a non-voting co-opted member appointment.
13. Nonetheless, work schedules are not fixed and can be adapted and changed (in-year) to reflect any new and emerging issues that may be identified, while also reflecting any timetabling issues that might occur from time to time.

#### Implications of the Health and Care Act 2022

14. Perhaps for the first time, the guidance very clearly states the design of new models of integrated care and support being introduced through the Health and Care Act 2022 will inevitably lead to changes in how and where services are provided.
15. Alongside this, the guidance highlights the invaluable role of HOSCs in scrutinising the impact and effectiveness of integration on local health services and outcomes – during the initial transition and implementation of ICBs and ICPs, and beyond.
16. The Scrutiny Board will play a valuable role in improving the evidence base for decisions about integration and in holding to account all partners about the level of local ambition to improve health and integrate services in ways that benefit service users and the wider public. The Scrutiny Board will continue to have a role in ensuring the views of local people are fully reflected in the consideration of any proposals.

#### Five key principles

17. The guidance also sets out five key principles, aimed at ensuring the benefits of effective scrutiny are realised. The principles are outlined below:
- Outcome Focused – exploring and considering the complexities of health and wellbeing and help to evaluate the planning, delivery and reconfiguration of health and care services.
  - Balanced – striking a balance between being future focused and reactive to emerging issues and concerns.
  - Inclusive – the primary aim of health scrutiny is to strengthen the voice of local people and provide local accountability. Ensuring local people’s needs and experiences are considered as an integral part of the commissioning and delivery of health services, and that those services are effective and safe.
  - Collaborative – ensuring details of the future decisions and issues to be scrutinised are informed by communities, providers and planners of health and care services. Working collaboratively with all local partners and stakeholders and other local authorities on cross-boundary matters (on a discretionary and mandatory basis, as required).
  - Evidence Informed – ensuring evidence is sound and robust, while also ensuring no voice is left unheard or evidence overlooked.
18. It should be noted that these principles are provided for all stakeholders and not solely aimed at Health Overview and Scrutiny Committees. The principles need to be embedded in the overall approach to health scrutiny, which requires the collaboration and cooperation of all partners and stakeholders.

#### Joint Health Scrutiny

19. The guidance highlights that under the new structure of ICBs and ICPs, there will be a need for scrutiny of health services and outcomes at a local place-based level, as well as more strategic scrutiny of health services and system-level outcomes. Both levels of scrutiny are important; and as such an appropriate balance between both levels of scrutiny should be maintained. Establishing joint health overview and scrutiny committees (JHOSCs) where appropriate and necessary will continue to be a necessary feature of the new arrangements.
20. It is likely that both discretionary and mandatory JHOSC arrangements will need to operate from time-to-time. Such arrangements may also include the involvement of local authorities on the boundaries of ICBs – primarily due to patient flow – i.e. how and where patients access services.
21. Across West Yorkshire, there are recent examples where JHOSC arrangements have been established on both a discretionary and mandatory basis.

#### Discretionary arrangements

22. 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). This discretionary joint committee continues to meet periodically, and the original terms of reference remain in place. These details were presented to the Scrutiny Board at its meeting in June 2022.

23. While the comments on the ongoing role of place-based Health Overview and Scrutiny Committees, the new guidance also notes the likelihood for an increasing level of collaboration through discretionary JHOSCs, to oversee and maintain oversight of the effectiveness of ICB-level plans and strategies. The guidance sets out an evolving landscape and highlights the need for joint protocols for identifying priorities and developing forward plans.
24. Given the formalisation of ICBs and ICPs through the Health and Care Act 2022, it is perhaps timely to consider reviewing and, where appropriate, revising the terms of reference for the discretionary West Yorkshire Joint Health Overview and Scrutiny Committee, subject to the necessary decision-making arrangements of the constituent local authorities.
25. It would also seem timely to consider current working arrangements and the need for any joint protocols – as suggested by the new guidance – to help ensure an appropriate and proportionate balance between maintaining oversight of the effectiveness of ICB-level plans and strategies and local place-based scrutiny activity.

#### Mandatory arrangements

26. Under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, local authorities must appoint a joint health overview and scrutiny committee where a relevant NHS body or health service provider consults more than one local authority health scrutiny function about substantial reconfiguration proposals.
27. In late 2019, a mandatory North and West Yorkshire Joint Health Overview and Scrutiny Committee (JHOSC) was established to consider proposed changes to vascular services across West Yorkshire. Due to patient flow, the proposed changes also impacted on some residents across North Yorkshire – hence the involvement of North Yorkshire County Council in the mandatory arrangements.
28. The guidance recognises the significant effort and time that may be necessary to establish mandatory JHOSC arrangements, and therefore identifies the need for NHS commissioners and provides to actively engage and involve all local authorities likely to be impacted by any substantial reconfiguration proposals that are under consideration.
29. Early engagement is likely to be beneficial to all parties and will help to identify the likely timescales necessary to establish any mandatory arrangements.
30. In the event of any future substantial reconfiguration proposals where those impacts are likely to be contained within the boundaries of the West Yorkshire ICB, consideration should be given to what extent provision to act as a mandatory JHOSC can be incorporated into the terms of reference of the West Yorkshire discretionary JHOSC.
31. If permissible, such arrangements are likely to reduce the time and resources required to establish such mandatory arrangements on an ad-hoc basis.

#### Other guidance

32. In addition to issuing the guidance on health overview and scrutiny committee principles, the Department of Health and Social Care also published the following range of guidance

associated with the implementation of the Health and Care Act 2022 and the associated working arrangements:

- [Guidance on the preparation of integrated care strategies - GOV.UK \(www.gov.uk\)](#)
- [Health and wellbeing boards: draft guidance for engagement - GOV.UK \(www.gov.uk\)](#)
- [Adult social care principles for integrated care partnerships - GOV.UK \(www.gov.uk\)](#)
- [Expected ways of working between integrated care providers and adult social care providers - GOV.UK \(www.gov.uk\)](#)

33. It is recommended that the Board requests further details, including local implications associated with the above additional guidance, is incorporated into the update on the local Integrated Care Board, currently scheduled for the Board's October meeting.

### What impact will this proposal have?

**Wards affected: All**

Have ward members been consulted?

Yes

No

34. 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?

35. This report sets out recently published guidance that relates to the implementation of the Health and Care Act 2022, specifically in relation to the discharge of local authority health scrutiny functions. In presenting these details, it provides an opportunity for members of the Scrutiny Board to express a view on the guidance and its application locally.

### What are the resource implications?

36. This report has no specific resource implications.

### What are the legal implications?

37. The Scrutiny Board (Adults, Health and Active Lifestyles) has been allocated special responsibility 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?

38. This report sets out recently published guidance that relates to the implementation of the Health and Care Act 2022, specifically in relation to the discharge of local authority health scrutiny functions. In presenting and seeking members views on these details, it mitigates the risks of local health overview and scrutiny arrangements not being aligned to the latest guidance.

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

Inclusive Growth

Health and Wellbeing

Climate Emergency

39. Health scrutiny remains an integral part of the Leeds' evolving local health and care system, shaped by the introduction of the Health and Care Act 2022 and the establishment of Integrated Care Boards (ICBs) and Integrated Care Partnerships (ICPs).
40. As part of Leeds' local health and care system, the Scrutiny Board and its activities should remain outcome focused and consider cross-cutting issues, including general health improvement, wellbeing and how well health inequalities are being addressed, as well as specific treatment services, in line with the new guidance presented and detailed in this report.

### **Appendices**

41. None.

### **Background papers**

42. None.