

Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Cabinet

22nd September 2003

Overview and Scrutiny of Health

Report of the Corporate Director of Social Care and Health

1. Purpose of Report

- 1.1 This report proposes how the City Council should exercise the new responsibility given to councils to establish a new Committee for the Overview and Scrutiny of Health. These were given under the Local Government Act 2000 (Section 21) as amended by the Health and Social Care Act 2001, and, particularly, the Statutory Instrument 2002 No. 3048: The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.
- 1.2 The report also proposes collaborative arrangements (with Leicestershire County Council and Rutland County Council) for the Scrutiny of those NHS services provided across the whole sub-region, principally those of the University Hospitals of Leicester NHS Trust, the Leicestershire Partnership NHS Trust and the East Midlands Ambulance Service, but including, as appropriate, the Leicestershire, Northamptonshire and Rutland Strategic Health Authority. This would certainly need to be a Joint Committee when the three local authorities are formally consulted on measures affecting them all.

2. Summary

- 2.1 At its meeting on 19th November 2001, the Cabinet considered a Discussion Document on Involving Patients and the Public in Healthcare issued in September 2001 as part of the Government's proposals to replace Community Health Councils (CHCs), now likely by December 2003. The Health and Social Care Act 2001 put in place the building blocks for this namely:
 - New powers for local government overview and scrutiny committees to scrutinise the NHS.
 - A new duty on the NHS to involve the public in the planning and development of services and its major decisions.
 - A new duty on the Secretary of State to make independent advocacy services available to people wishing to make a complaint against the NHS.

- 2.2 In addition, a further set of arrangements has been put in place to create a statutory Patients Forum for each PCT and NHS Trust. These are made up of lay members, including patients and representatives from community and voluntary organisations. These forums have the power to refer issues of concern to overview and scrutiny committees,
- 2.3 A new national body, the Commission for Public and Patient Involvement in Health, will oversee these arrangements.
- 2.4 Government guidance on the establishment of Overview and Scrutiny of Health was published in May 2003, and this is attached to the Supporting Information. This report proposes arrangements to set up a Committee for Leicester and proposed arrangements for a joint approach for aspects of work of the NHS Trusts and the SHA that cover all three local authority areas (Leicester, Leicestershire and Rutland) that do not have a distinct local impact for any council's own area.
- 2.5 Given the scope and extent of the new role, this cannot be absorbed into the Council's existing internal scrutiny structure. It will provide the City Council with opportunities to demonstrate community leadership, build further community engagement with a key issue for city residents and to continue that aspect of the consultative work of the Community Health Council.
- 2.6 A report was presented to the Procedures Working Party on 19 August 2003 seeking views on how the Council might exercise its statutory duty to establish a Committee for the Overview and Scrutiny of Health. Issues were discussed regarding collaborative arrangements and the need for Scrutiny to be unrestricted by geographical boundaries. The Working Party agreed as follows: -
 - “(1) that the proposals in the report be supported in principle, subject to issues in relation to collaborative arrangements and Scrutiny not being constrained by geographical boundaries being resolved;
 - (2) to note that discussions and negotiations would continue, with a view to submitting a report to Cabinet on 22 September.”

3. Recommendations

It is recommended that:

- (a) Cabinet offers the Procedures Working Party and the Council its views on the proposal to establish a new Overview and Scrutiny Committee for Health, and on its scope and the manner of working with Leicestershire and Rutland County Councils;
- (b) The financial implications of the proposal be noted and taken into account in respect of the budget proposals of the Council;
- (c) Note that a further report will be submitted to the Procedures Working Party and Council, for consideration as soon as is practical, with proposals for the constitution, terms of reference and membership of the City Committee and arrangements for a Joint Committee with the Leicestershire and the Rutland Scrutiny Committees.

4. Headline Financial and Legal Implications

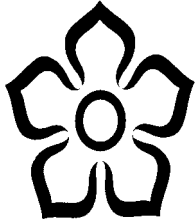
- 4.1 The City Council is required by law to have in place arrangements to scrutinise the NHS via an overview and scrutiny committee. How the scrutiny function is discharged by a council is largely a matter to be decided locally subject to regulations and the Secretary of State's guidance and directions. There is no bar to establishing collaborative scrutiny arrangements with the County Councils. However, there is a requirement for two authorities to establish a joint scrutiny committee where they are both consulted in respect of the same proposal by a local NHS body for a substantial development or variation of the health service in their areas (Guy Goodman, Asst. Head of Legal Services – tel. 252 7054).
- 4.2 No additional budgetary provision exists for the policy support necessary to undertake this new role. It is estimated that this would require £40,000 – 80,000 to fund specialist policy support and committee administration costs. The lower figure would cover the support required for the City Committee, the higher collaborative covers collaborative arrangements supported by the City Council on behalf of neighbouring councils. It is possible these can be offset by contributions from the NHS. The report recommends discussion with NHS bodies on support in cash and kind and with Leicestershire and Rutland on supporting any collaborative arrangements. (Colin Sharpe, Head of Finance Social Care and Health – tel. 252 8800).

5. Report Author/Officer to contact:

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DECISION STATUS

Key Decision	Yes
Reason	Part of Budget and Policy Framework
Appeared in Forward Plan	Yes
Executive or Council Decision	Council



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Overview and Scrutiny of Health

SUPPORTING INFORMATION

1. Introduction to Overview and Scrutiny of Health

- 1.1 The new responsibilities given to the City Council are based on Section 7 of the Health and Social Care Act 2001, that amends Section 21 of the Local Government Act to require local authorities with social services responsibilities to ensure that their overview and scrutiny committee or committees have the power to scrutinise the planning, provision and operation of health services.
- 1.2 There is a provision for joint committees for both a specific scrutiny review and for ongoing scrutiny planning and review. Discussions with Leicestershire and Rutland County Councils and the NHS Trusts serving them suggest a joint approach may be the best way of scrutinising their provision of services that cover the whole area and do not impact disproportionately on any one council.
- 1.3 The attached Guidance says that the primary aim of health scrutiny is to act as a lever to improve the health of local people, ensuring that the needs of local people are considered as an integral part of the delivery and development of health services. In summary the Guidance expects scrutiny to:
 - Focus on health improvement, bringing together the responsibilities of local authorities to promote social, environmental and economic well-being and the power to scrutinise local services provided by and commissioned by the NHS.
 - Address issues of health inequalities.
 - Take a constructive but challenging approach, bringing together evidence and people's experience to identify priority issues and drive forward improvement.
 - Produce an annual overview and scrutiny plan that is discussed and shared with local health bodies, including patients' forums.

- 1.4 The powers of overview and scrutiny of the NHS enable committees to review any matter relating to the planning, provision and operation of health services in the area of its local authority.

2. Issues to be Scrutinised

- 2.1 The new powers enable an overview and scrutiny committee to review any matter relating to the planning, provision and operation of health services in its area. Guidance suggests the following specific issues may be included:

- Arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the authority's area and the services that are provided;
- Arrangements made by local NHS bodies for public health, health promotion and health improvement (including addressing health inequalities) in its area;
- The planning of health services by local NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population;
- The arrangements made by local NHS bodies for consulting and involving patients and the public under the duty placed on them by section 11 of the Act;
- Any matters referred to the committee by a patients' forum by virtue of the powers under the NHS Reform and Health Care Professions Act 2002;
- Consultations on service reconfigurations.
- Publish a scrutiny report and recommendations for response by the NHS bodies to which it refers.

3. Membership of an Overview and Scrutiny Committee for Health

- 3.1 The Guidance limits membership to councillors outside the Cabinet and Executive spokespersons. (Section 1.11 *my italics*):

"Inevitably, committees looking at health issues will be scrutinising the actions and decisions of their own and other local authorities' executive, as well as those of NHS bodies. Moreover, individual councillors will wish to represent the views of their constituents on issues of local health concern. *Although this is a matter for political parties to consider, it is the Government's expectation that the scrutiny function should not be 'whipped' and should operate independently of the council's executive.* It is recommended that committees seek evidence and views from executive members where relevant, and keep abreast of the council's wider aims and activities in relation to health. It should be remembered that executive members may not be members of an overview and scrutiny committee."

- 3.2 Conflicts of interest may arise to if scrutinising councillors are:

- An employee of an NHS body; or
- A non-executive director of an NHS body; or
- An executive member of another local authority;
- An employee or board member of an organisation commissioned by a NHS body to provide goods or services.

In such instances councillors would need to follow the local authority protocols covering this.

- 3.3 The Regulations give powers to committees to co-opt members. This is particularly intended for county council areas to allow for the co-option of district councillors.
- 3.4 The same power could be used to co-opt external stakeholders, although it is suggested that involvement of other organisations may best be done by their invitation to attend as advisers on particular issues.
- 3.5 It is also suggested that the Director of Public Health from a lead commissioning PCT might act as an adviser to the committee for the duration of a scrutiny review. In Leicester this would mirror the role of Dr Rashmi Shukla, who has been for a number of years a co-opted member of the social Services and Personal Health Scrutiny Committee.

4. Duties Placed upon NHS Bodies in relation to Overview and scrutiny

- 4.1 The Regulations enable overview and scrutiny committees to request the attendance of an officer from a local NHS body (including any new Foundation Trust) to answer questions. Such requests should, it is recommended, be generally made through the Chief Executive so that they can determine the best person to attend. Where requests are refused, the committee can appeal to the Strategic Health Authority for clarification.
- 4.2 They go on to say that local NHS bodies must provide an overview committee with such information about the planning, provision and operation of health services in its area as the committee may reasonably require to undertake effective scrutiny.
- 4.3 The committee does not have the power to require individual GPs, dentists, pharmacists or those providing ophthalmic services to attend. They are not officers of the PCT or NHS body. Such practitioners might be willing to attend at the request of the PCT. Where a view from general practice may be useful to the committee it might be sought from the Local Medical Committee or BMA.
- 4.4 As with current social services scrutiny, information that identifies individual patients, carers or staff may only be provided if the individual agrees and steps are taken to ensure it is anonymised and identification is not possible.

Consultation

- 4.5 Each local NHS body also has a duty to consult the committee on any proposals it may have under consideration for *any substantial development or variation in*

provision of services in that local authority's area. This is in addition to the duty to consult the local authority (as opposed to the committee) on service developments linked to the council's own or commissioned services.

- 4.6 The Regulations do not define "substantial". It is suggested that the following features might be taken into account (Guidance section 10.6.3):
- Changes in accessibility of services
 - Impact of the proposal on the wider community
 - Patients affected
 - Methods of service delivery.
- 4.7 Where the committee is not satisfied with the content of the consultation or the time allowed, or the reasons for not consulting are inadequate, it can report the issue to the secretary of State for Health in writing. They may require the local NHS body to consult or carry out further consultation.
- 4.8 Similarly, if the committee believes a proposal is not in the interests of the health service in its area, it can refer the matter to the Secretary of State, setting out the reasons. In such circumstances, the Secretary of State may ask the Independent Reconfiguration Panel (an advisory, non-departmental public body) to advise him on the matter (Section 10.6.9 of the Guidance).

5. Establishment of Joint Committees

- 5.1 The legislation refers mainly to health services in the area of the committee's local authority. Those exclusive to Leicester are commissioned and provided by the city's two Primary Care Trusts (Eastern Leicester PCT and Leicester City West PCT).
- 5.2 As in many local authority areas, health services are provided by NHS trusts serving more than one council's area. Locally this is the case for the University Hospitals of Leicester NHS Trust (acute services), Leicestershire Partnership NHS Trust (mental health and learning disabilities services) and the East Midland Ambulance Service. In addition, the Leicestershire, Northamptonshire and Rutland Strategic Health Authority performance manages health bodies across four local authority areas.
- 5.3 Discussions with Leicestershire and Rutland County Councils have indicated their interest in collaborating in the scrutiny of these NHS Trusts and, where appropriate, the SHA. This would prevent duplicating demands on the NHS and provide a more coherent approach.
- 5.4 It would make sense if this joint arrangement were to undertake specific reviews in the first instance. It is recommended further work is done on this proposal, and how it might be supported, for further consideration.

6. Officer Support to the Scrutiny and Overview Committee

- 6.1 As a formal committee of the Council, the City's Committee would be serviced by Committee Services in the same way as other scrutiny committees.
- 6.2 To be effective it will need dedicated policy support time to manage the commissioning of reports, co-ordinate the input from NHS bodies and support the Chair and members. It will also need policy support contributions from across the Council in Departments relevant to the scrutiny programme adopted that year.
- 6.3 It is assumed that the NHS in the City will contribute in cash and kind to this process and further discussions will be held to explore this further. It may well be useful to the Committee to have a standing adviser from the outset such as a Director of Public Health to assist its work.
- 6.4 Discussions will be held with Leicestershire and Rutland County Councils about which authority would "host" the proposed collaborative arrangements, although it would be sensible for Leicester City Council to do so, given the headquarters of three of the NHS bodies is in, or close, to the city boundaries. If it were to be Leicester City Council, then a financial contribution to the costs and identified policy support would be a pre-requisite.

7. Financial, Legal and other Implications

- 7.1 The legal implications are to be found at paragraph 4.1 of the covering report.
- 7.2 No additional budgetary provision exists for the policy support necessary to undertake this new role. It is estimated that this would require £40,000 – 80,000 to fund specialist policy support and committee administration costs. The report recommends discussion with NHS bodies on support in cash and kind and with Leicestershire and Rutland on supporting the new proposed collaborative arrangements.

OTHER IMPLICATIONS	YES/NO	Paragraph References within Supporting information
Equal Opportunities	Yes	The Committee should have regard to reducing health inequalities in access, provision and outcomes
Policy	Yes	Throughout the report
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	Yes	Indirectly as principal users of the NHS.

9. Consultation

Procedures Working Party
Corporate Directors' Board
Leicestershire Executive Group (NHS Chief Executives and Directors of Social Services)
Leicestershire County Council
Rutland County Council

10. Background Papers

Government guidance.

11. Report Author/Officer to contact:

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