

HEALTH SCRUTINY COMMITTEE

21 September 2022

Title: Appointments to the Outer North East London Joint Health Overview and Scrutiny Committee	
Report of the Chief Strategy Officer	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Director: Alex Powell, Chief Strategy Officer	
Summary This report is to: <ul style="list-style-type: none">i. Inform the Health Scrutiny Committee (HSC) of the local arrangements for joint health scrutiny; andii. Ask the Committee to confirm the appointment of three HSC members to the Outer North East London (ONEL) Joint Health Overview and Scrutiny Committee (JHOSC) for the 2022/23 municipal year. This report and the Terms of Reference at Appendix 1 explain local joint health scrutiny arrangements amongst the boroughs of Barking and Dagenham, Havering and Redbridge.	
Recommendation(s) The HSC is recommended to: <ul style="list-style-type: none">(i) Note the Terms of Reference for the JHOSC; and(ii) Agree the appointment of three HSC members to the JHOSC for 2022/23.	
Reason(s) To accord with joint health scrutiny arrangements.	

1. Powers of Health Scrutiny in general

Regulations under the National Health Service Act 2006 state that local authorities in England have the power to:

- "Review and scrutinise matters relating to the planning, provision and operation of the health service in the area. This may well include scrutinising the finances of local health services;
- Require information to be provided by certain NHS bodies about the planning, provision and operation of health services that is reasonably needed to carry out health scrutiny;
- Require employees including non-executive directors of certain NHS bodies to attend before them to answer questions;
- Make reports and recommendations to certain NHS bodies and expect a response within 28 days;
- Set up joint health scrutiny committees with other local authorities and delegate health scrutiny functions to an overview and scrutiny committee of another local authority; and
- Refer NHS substantial reconfiguration proposals to the Secretary of State if a local authority considers:
 - The consultation has been inadequate in relation to the content or the amount of time allowed;
 - The NHS body has given inadequate reasons where it has not consulted for reasons of urgency relating to the safety or welfare of patients or staff; and
 - A proposal would not be in the interests of the health service in its area".¹

2. Joint Health Scrutiny Arrangements

2.1 The Department of Health Guidance ('the Guidance') issued in June 2014 describes two types of joint scrutiny committees; discretionary and mandatory. Discretionary joint committees are set up by local authorities by choice to scrutinise health matters that cross local authority boundaries. Mandatory joint committees are required by regulation to be set up when a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about substantial reconfiguration proposals.

2.2 In such circumstances, the regulations state that:

- "Only the joint committee may respond to the consultation (i.e. rather than each individual local authority responding separately);
- Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal; and
- Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service provider to attend before it to answer questions in connection with the consultation."²

¹ Department of Health, Local Authority Health Scrutiny Guidance, 27 June 2014, p12

² Department of Health, p17

2.3 Individual councils or departments would still be able to respond informally to any consultations but the responsibility to give a formal response would lie with the mandatory JHOSC.

3. Referrals to the Secretary of State for Health

3.1 The Guidance makes it clear that the above restrictions do not apply to referrals to the Secretary of State. "Local authorities may choose to delegate their power of referral to the mandatory joint committee but they need not do so. If a local authority had already appointed a discretionary committee, they could even delegate the power to that committee if they choose to. If the local authority has delegated this power, then they may not subsequently exercise the power of referral. If they do not delegate the power, they may make such referrals."³

3.2 The London Borough of Barking and Dagenham's Constitution delegates the power of referral to the Secretary of State to the HSC.

4. The Outer North East London Joint Health Overview and Scrutiny Committee

4.1 The ONEL JHOSC consists of three members from each of the following boroughs:

- Barking & Dagenham;
- Havering; and
- Redbridge.

The London Borough of Waltham Forest used to be represented on the ONEL JHOSC via three of its health scrutiny members. However, following a meeting of its Council on 25 April 2019, it agreed to reduce its membership of the ONEL JHOSC from three members to one, and transfer its main membership to the Inner North East London JHOSC, to reflect changes in the local health commissioning landscape.

The Essex County Council may nominate one full Member for the JHOSC. Thurrock Borough Council's Health Overview and Scrutiny Committee may nominate an observing Member to the Joint Health Overview and Scrutiny Committee. The councils of the Borough of Brentwood and District of Epping Forest may also each nominate an observing Member.

4.2 Background to the JHOSC

The Outer North East London JHOSC was established by the health overview and scrutiny committees of the above boroughs, exercising their powers under section 7 of the Health and Social Care Act 2001 and the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002. This legislation, together with directions issued by the Secretary of State for Health in 2003, required all local authorities affected by what they considered to be 'substantial variations' in local health services to form a 'joint health overview and scrutiny committee' to consider those changes.

³ Department of Health, p17

5. Further information regarding the JHOSC and Appointment of Members

- 5.1 The Terms of Reference at Appendix 1 describe the remit and governance of the JHOSC.
- 5.2 There are typically four JHOSC meetings a year with the boroughs taking turns to host the meetings. The chair of the health scrutiny committee from the hosting borough chairs the JHOSC meeting.
- 5.3 The first JHOSC meeting of 2022/23 was held at 4.00pm on Thursday 28 July 2022. The remaining JHOSC meetings for the year will take place on:
- Tuesday 18 October 2022;
 - Tuesday 10 January 2023; and
 - Tuesday 18 April 2023.
- 5.4 In Barking and Dagenham, the Chair and Deputy Chair of the HSC are usually appointed to the JHOSC as a matter of standard practice. This year the HSC Chair and Deputy Chair are Cllr Paul Robinson and Cllr Donna Lumsden respectively. It is therefore recommended that Cllrs Robinson and Lumsden are appointed to sit on the JHOSC for the 2022/23 municipal year, with the third Member appointment to be put forward at today's meeting.

6. Financial Implications

- 6.1 This report is largely for information and seeks to confirm the appointment of three Health Scrutiny Committee (HSC) members to the Outer North East London Joint Health Overview and Scrutiny Committee, for the 2022/23 municipal year. As such, there are no direct financial implications arising from the report.

7. Legal Implications

Implications completed by Dr Paul Feild, Senior Governance Solicitor

- 7.1 Under section 21 of the Local Government Act 2000 the Health Scrutiny Committee has specific responsibilities about health functions in the Borough. Such Health Scrutiny Committees shall carry out health scrutiny in accordance with Section 244 (and Regulations under that section) of the National Health Services Act 2006 as amended by the Local Government and Public Involvement in Health Act 2007 relating to local health service matters. The Health Scrutiny Committee in its work has all the powers of an Overview and Scrutiny Committee as set out in section 9F of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Social Care Act 2001 (including associated Regulations and Guidance).
- 7.2 Furthermore health matters can and do have cross borough implications and in some matter as identified in the body of this report only a Joint Health Scrutiny Committee can respond. To address this issue a multi borough health scrutiny committee covering Barking & Dagenham; Havering; Redbridge and Waltham Forest has been established (although Waltham Forest is now lesser represented as explained in the main report). It exercises its powers under section 7 of the Health and Social Care Act 2001 and the Local Authority (Overview and Scrutiny

Committees Health Scrutiny Functions) Regulations 2002. This report seeks agreement to make appointment of three HSC members to the Outer North East London (ONEL) Joint Health Overview and Scrutiny Committee (JHOSC) for the 2022/23 municipal year.

Background Papers Used in the Preparation of the Report: None.

List of appendices:

Appendix 1: Joint Health Overview and Scrutiny Committee's Terms of Reference