Title: Joint Health Overview and Scrutiny Committee

Report of the Director of Law & Governance

Open Report | For Decision
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**Accountable Divisional Director:** Fiona Taylor, Director of Law & Governance

**Accountable Director:** Chris Naylor, Chief Executive

Summary:

This report is to:

i. Inform the Health and Adults Services Select Committee (HASSC) of the local arrangements for joint health scrutiny and,

ii. Ask the Committee to appoint three HASSC members to the Joint Health Overview and Scrutiny Committee (JHOSC) for the 2016/17 municipal year.

This report and the appended Terms of Reference explain local joint health scrutiny arrangements amongst the boroughs of Barking and Dagenham, Havering, Redbridge, and Waltham Forest, which cover the Outer North East London area.

The Terms of Reference at Appendix 1 state that the JHOSC will consist of three members of each local authority represented, appointed by each borough’s health overview and scrutiny committee. In previous years the Lead and Deputy Lead members of the HASSC have usually been put forward to fill two of the three vacancies.

Recommendations

The HASSC is recommended to:

(i) Note the Terms of Reference for the JHOSC;

(ii) Note the letter from the JHOSC to the Chief Executive of the NHS, and

(iii) Agree to appoint three HASSC members to the JHOSC.

Reason

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.
- 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.
  - 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.
- 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

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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 HASSC.

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

4.1 The Outer North East London JHOSC consists of three members from each of the following boroughs:
- Barking & Dagenham
- Havering
- Redbridge and
- Waltham Forest.

The Essex County Council Health Overview and Scrutiny Committee is permitted to appoint one member to the JHOSC.

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.

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. These state that the JHOSC will consist of three members of each local authority represented, appointed by each borough's health overview and scrutiny committee. In previous years the HASSC has agreed to appoint its Lead and Deputy Lead members to fill two of the three vacancies and if the HASSC agrees to do the same at its meeting on 9 June 2016, it would need to appoint one further member. If more than three nominations are received, a vote will be conducted to determine the appointments.

³ Department of Health, p17
5.2 There are typically four JHOSC meetings a year with the four boroughs taking turns to host each meeting. The chair of the health scrutiny committee from the hosting borough chairs the JHOSC meeting. The meetings are clerked by Anthony Clements, Principle Committee Officer at the London Borough of Havering, who charges the boroughs for his support in proportion to the number of members they may appoint to the Committee.

5.3 Four JHOSC meetings have been scheduled for the 2016/17 municipal year as listed below. The latter three will be put to the first meeting for agreement.

- 2pm, 12 July 2016 – Barking & Dagenham
- 2pm, 18 October 2016 – Havering
- 2pm, 17 January 2017 – Redbridge
- 2pm, 18 April 2017 – Waltham Forest.

Update on issues discussed at the last JHOSC

5.4 The last JHOSC meeting was hosted by Waltham Forest on 19 April 2016. The following matters were discussed at this meeting:

- Pre-exposure prophylactics;
- Transforming Services Together;
- Moorfields hospital move project, and
- GP primary medical services contracts.

With regards to pre-exposure prophylactics (HIV treatment), the JHOSC agreed that it would write to Simon Stevens, the Chief Executive of the NHS, regarding its concerns over NHS England’s decision not to put forward the treatment for national funding. The letter is provided at Appendix 2, for the HASSC’s information, and the boroughs’ MPs have also been sent a copy of the letter.

5.5 The minutes of all the JHOSC meetings held during 2015/16 are available on http://democracy.havering.gov.uk/ieListMeetings.aspx?CommitteeId=273

6. Financial and Legal Implications

There are no financial or legal implications arising directly from this report.

Background Papers Used in the Preparation of the Report:

Barking and Dagenham Council Constitution
http://moderngov.barking-dagenham.gov.uk/ieListDocuments.aspx?CId=626&MId=9162&Ver=4

Local Health Scrutiny Guidance 2014, Department of Health:

List of appendices:

Appendix 1 Joint Health Overview and Scrutiny Committee’s Terms of Reference
Appendix 2 Letter from JHOSC to the Chief Executive of the NHS regarding funding of pre-exposure prophylactics