

Essex, Southend, and Thurrock Joint Health Scrutiny Committee

Terms of Reference

1. Legislative basis

- 1.1** The National Health Service Act 2006, as amended by the Health and Social Care Act 2012 and the Localism Act 2011 sets out the regulation-making powers of the Secretary of State in relation to health scrutiny. The relevant regulations are the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 which came into force on 1st April 2013.
- 1.2** Regulation 30 (1) states two or more local authorities may appoint a joint scrutiny committee and arrange for relevant health scrutiny functions in relation to any or all those authorities to be exercisable by the joint committee, subject to such terms and conditions as the authorities may consider appropriate.
- 1.3** Where an NHS body consults more than one local authority on a proposal for a substantial development of the health service or a substantial variation in the provision of such a service, those authorities are required to appoint a mandatory joint committee for the purposes of receiving the consultation. Only that joint committee may:
- make comments on the proposal to the NHS body;
 - require the provision of information about the proposal;
 - require an officer of the NHS body to attend before it to answer questions in connection with the proposal.

2. Purpose

- 2.1** The purpose of the joint committee is to scrutinise matters and proposals which may impact upon services provided to patients across the Essex, Southend and Thurrock areas.
- 2.2** The joint committee will also act as the mandatory joint committee if an NHS body is required to consult on a substantial variation or development in service affecting patients across these local authority areas.
- 2.3** In receiving formal consultation on a substantial variation or development in service, the joint committee will consider:
- the extent to which the proposals are in the interests of the health service in Essex, Southend, and Thurrock;
 - the impact of the proposals on patient and carer experience and outcomes and on their health and well-being;
 - the quality of the clinical evidence underlying the proposals;
 - the extent to which the proposals are financially sustainable;
 - and will make a response to the relevant NHS body and other appropriate agencies on the proposals, considering the date by which the proposal is to be ratified.
- 2.4** The joint committee will consider and comment on the extent to which patients and the public have been involved in the development of the proposals and the extent to which their views have been considered as well as the adequacy of public and stakeholder engagement in any formal consultation process.

3. Membership/Chairing

- 3.1 The joint committee will consist of four members representing Essex, four members representing Southend and four members representing Thurrock, as nominated by the respective health scrutiny committees.
- 3.2 Each authority may nominate up to 2 substitute members.
- 3.3 The proportionality requirement will not apply to the joint committee, provided that each authority participating in the joint committee agrees to waive that requirement, in accordance with legal requirements and their own constitutional arrangements.
- 3.4 Individual authorities will decide whether or not to apply political proportionality to their own members.
- 3.5 The joint committee will elect a Chairman and Vice-Chairman at its first meeting.
- 3.6 The joint committee will be asked to agree its Terms of Reference at its first meeting.
- 3.7 Each member of the joint committee will have one vote.

4. Co-option

- 4.1 By a simple majority vote, the joint committee may agree to co-opt representatives of organisations with an interest or expertise in the issue being scrutinised as non-voting members, but with all other member rights. This may be for a specific subject area or specified duration.
- 4.2 Any organisation with a co-opted member will be entitled to nominate a substitute member.
- 4.3 A standing invitation to attend meetings will be extended to the Chief Executives of Healthwatch Essex, Healthwatch Southend and Healthwatch Thurrock.

5. Supporting the joint HOSC

- 5.1 The three authorities will work together to provide Chairmanship and officer support to the joint committee.
- 5.2 The three authorities will work together to act as secretary to the joint committee. This will include:
 - appointing a lead officer to advise and liaise with the Chairman and joint committee members, ensure attendance of witnesses, liaise with the consulting NHS body and other agencies, and produce reports for submission to the health bodies concerned;
 - providing administrative support;
 - organising and minuting meetings.
- 5.3 The three authorities Constitution will apply in any relevant matter not covered in these terms of reference.
- 5.4 Meetings shall be held at venues, dates and times agreed between the participating authorities.

6. Powers

- 6.1 In carrying out its function the joint committee may:
 - require officers of appropriate local NHS bodies to attend and answer questions;

- require appropriate local NHS bodies to provide information;
- obtain and consider information and evidence from other sources, such as local Healthwatch organisations, patient groups, members of the public, expert advisers, local authorities, and other agencies. This could include, for example, inviting witnesses to attend a joint committee meeting; inviting written evidence; site visits; delegating committee members to attend meetings, or meet with interested parties and report back.
- make reports and recommendations to the appropriate NHS bodies and other bodies that it determines, including the local authorities which have appointed the joint committee.
- consider the NHS bodies' response to its recommendations;
- In the event the joint committee is formally consulted upon a substantial variation or development in service, it may refer the proposal to the Secretary of State if the joint committee considers:
 - it is not satisfied that consultation with the joint committee has been adequate in relation to content, method or time allowed;
 - it is not satisfied that consultation with public; patients and stakeholders has been adequate in relation to content, method or time allowed;
 - that the proposal would not be in the interests of the health service in its area.

7. Public Involvement

- 7.1 The joint committee will meet in public, and papers will be available at least 5 working days in advance of meetings.
- 7.2 The participating authorities will arrange for papers relating to the work of the joint committee to be published on their websites or make links to the papers published on the lead authority's website as appropriate.
- 7.3 A press release may be circulated to local media at the start of the process and at other times during the scrutiny process at the discretion and direction of the Chairman and Vice Chairman.
- 7.4 Local media may attend meetings held in public.
- 7.5 Patient and voluntary organisations and individuals will be positively encouraged to submit evidence and to attend.
- 7.6 Members of the public attending meetings may speak in the Public Participation session on a matter relating to the agenda, in line with the arrangements set out in each authority's Constitution.

8. Press Strategy

- 8.1 The three authorities will be responsible for issuing press releases on behalf of the joint committee and dealing with press enquiries, unless agreed otherwise by the Committee.
- 8.2 Press releases made on behalf of the joint committee will be agreed by the Chairman or Vice-Chairman of the joint committee.
- 8.3 Press releases will be circulated to the link officers.
- 8.4 These arrangements do not preclude participating local authorities from issuing individual statements to the media provided that it is made clear that these are not made on behalf of the joint committee.

9. Report and recommendations

- 9.1 The three authorities will work together to prepare draft reports, as necessary, on the deliberations of the joint committee, including comments and recommendations agreed by the committee. Such report(s) will include whether any recommendations contained within it are based on a majority decision of the committee or are unanimous. Draft report(s) will be submitted to the representatives of participating authorities for comment.
- 9.2 Final versions of report(s) will be agreed by the joint committee Chairman.
- 9.3 In reaching its conclusions and recommendations, the joint committee should aim to achieve consensus. If consensus cannot be achieved, minority reports may be attached as an appendix to the main report. The minority report/s shall be drafted by the appropriate member(s) or authority concerned.
- 9.4 Report(s) will include an explanation of the matter reviewed or scrutinised, a summary of the evidence considered, a list of the participants involved in the review or scrutiny; and an explanation of any recommendations on the matter reviewed or scrutinised.
- 9.5 In addition, in the event the joint committee is formally consulted on a substantial variation or development in service: -

- If the joint committee makes recommendations to the NHS body and the NHS body disagrees with these recommendations, such steps will be taken as are “reasonably practicable” to try to reach agreement in relation to the subject of the recommendation.
- If the joint committee does not comment on the proposals, or the comments it provides do not include recommendations, the joint committee must inform the NHS body as to whether it intends to exercise its power to refer the matter to the Secretary of State and, if so, the date by which it proposes to do so.
- If the joint committee refers a matter to the Secretary of State, the relevant report made will include: -
 - an explanation of the proposal to which the report relates;
 - the reasons why the joint committee is not satisfied;
 - 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 taken to try to reach agreement in relation to the proposal;
 - evidence to demonstrate that the joint committee has complied with arrangements for appropriate notification of timescales for its decision to refer;
 - an explanation of the reasons for the making of the report; and
 - any evidence in support of those reasons.
- The joint committee may only refer the matter to the Secretary of State: -
 - in a case where the joint committee has made a recommendation which the NHS body disagrees with, when;
 - the joint committee is satisfied that all reasonably practicable steps have been taken by the NHS body and the joint committee to reach

- agreement; or
- the joint committee is satisfied that the NHS body has failed to take all reasonably practicable steps to reach agreement.
- if the requirements regarding notification of the intention to refer above have been adhered to.

10. Quorum for meetings

- 10.1 The quorum will be a minimum of six members, with at least two from each of the participating authorities. This will include either the Chairman or the Vice-Chairman. Best endeavours will be made in arranging meeting dates to maximise the numbers able to attend from both participating authorities.