

## **Health and Social Care Select Committee**

**15 November 2018**

### **Establishment of a Joint Health Overview & Scrutiny Committee (JHOSC) across Sussex and Surrey**

**Report by Director Law and Assurance**

#### **Summary**

The report outlines the role and functions of Joint Health and Overview Scrutiny Committees (JHOSC); explains the need to establish a JHOSC across West Sussex, Brighton & Hove, East Sussex and Surrey; and presents a draft JHOSC Terms of Reference for member approval.

#### **The focus for scrutiny**

To consider the need for a JHOSC across West Sussex, Brighton & Hove, East Sussex and Surrey, and to review and approve the Terms of Reference attached at Appendix A.

#### **Recommendation**

The Committee is asked to:

- i) Agree that a Joint Health and Overview Scrutiny Committee (JHOSC) be established with membership from Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council;
- ii) Agree the JHOSC Terms of Reference attached at Appendix A;
- iii) Appoint three County Council members to the JHOSC, based on the County Council's proportionality rules (2 majority group and 1 minority group representatives) and one co-opted member (district/borough representatives and Healthwatch) to represent the West Sussex Health and Adult Social Care Select Committee.

## **1. Background and Context**

- 1.1 The Health & Social Care Act (2001) and its regulations established local authority health overview and scrutiny committees (HOSCs), granting them statutory powers to scrutinise significant NHS plans for service change (Substantial Variation in Service: SViS). The Act also sets out that, when a SViS relates to services provided across two or more upper-tier local authority areas, a Joint HOSC (JHOSC) must be established to scrutinise the plans. The most up to date regulatory framework is provided by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, but JHOSC responsibilities remain relatively unchanged.

- 1.2 A JHOSC is typically convened to scrutinise a single NHS reconfiguration plan, although some areas have successfully introduced 'standing' JHOSCs, particularly where a series of major changes are anticipated over several years. JHOSCs are delegated statutory powers by their constituent HOSCs in relation only to the matters that the JHOSC is concerned with. This means that individual HOSCs may not scrutinise an issue that is being examined by the JHOSC. It also means that the JHOSC has no powers to scrutinise issues that lay outside its remit.

### ***Clinically Effective Commissioning (CEC)***

- 1.3 CEC is a Sussex-wide NHS initiative which aims to improve the effectiveness and value for money of healthcare services by ensuring that commissioning decisions across the region are consistent, that they reflect best clinical practice, are in line with the available evidence, and that they represent the most sensible use of limited resources. This Committee received a presentation on the programme in September 2017. Although CEC entails local CCGs working together, any service changes will be made by individual CCGs at locality level. However, since the aim of CEC is to standardise commissioning approaches across the county, any SViS for West Sussex will also constitute a substantial change for East Sussex and Brighton & Hove. In consequence, any substantial change generated by the CEC will potentially require scrutiny by a JHOSC.
- 1.4 To date, CEC has reviewed a number of clinical procedures. It is the CCGs' view that none of the plans agreed to date constitutes a SViS requiring formal consultation with HOSCs/JHOSC. However, the CCGs believe that some of the plans in the CEC pipeline are likely to constitute SViS; and, as they will also apply across local authority boundaries, they will therefore need to be formally considered by a JHOSC.
- 1.5 There is currently no information on which specific service change plans the JHOSC will be asked to scrutinise, since establishing the pipeline of procedures for CEC is an ongoing process. However, establishing a JHOSC takes time, as it requires coordination between several local authorities, and it is therefore necessary to begin preparations now in order to be ready to scrutinise plans in several months' time.

### ***Sustainability and Transformation Partnership (STP) – Sussex and East Surrey***

- 1.6 The emergence of the STP as a regional NHS planning footprint that is larger than any single local authority area means that it is likely that there may be more cross-border NHS change plans emerging in the near future, either as formal STP initiatives or otherwise. Establishing separate JHOSCs for each cross-border SViS would be very time-consuming. It is therefore proposed that a single JHOSC is established between Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council to consider all cross-boundary SViS. The JHOSC would set up sub-groups to scrutinise issues that do not involve the whole membership (e.g. CEC plans would be scrutinised by a sub-group of Brighton & Hove, East Sussex and West Sussex members, as Surrey is engaged in a parallel

Surrey-wide process rather than in CEC). Additional councils could also be co-opted to specific sub-groups if plans affect a larger footprint than the STP area. The JHOSC would be time-limited (existing for a maximum of four years).

### ***JHOSC Terms of Reference (ToR)***

- 1.7 A draft JHOSC ToR is attached as Appendix A to this report. The Chairmen of the four health scrutiny committees involved have been consulted and have approved in principle the ToR as set out and that they be presented to each of the committees for formal approval. HASC is able to suggest amendments to the ToR, but any changes it proposes would need to be unanimously approved by all the committees involved (hence in part the need to begin preparations at an early point).
- 1.8 It is proposed that each HOSC/HASC appoints three County/City Councillors to the JHOSC, based on each authority's proportionality rules (for West Sussex - 2 majority group and 1 minority group representatives) and one co-opted member (for West Sussex – one of the district/borough representatives or Healthwatch representative) to represent the West Sussex Health and Adult Social Care Select Committee.
- 1.9 When a JHOSC is established, HOSC statutory powers to refer SViS to the Secretary of State for Health can be retained by individual HOSCs or delegated to the JHOSC. In this instance it is not proposed to delegate powers of referral to the JHOSC. Should this JHOSC believe that a referral is required, it would make a recommendation, backed by evidence, to its constituent local authorities. Each local authority (so for West Sussex, this would be the HASC) would then individually decide whether to refer.

## **2. Proposal**

- 2.1 That a Joint Overview and Scrutiny Committee (JHOSC) be established in preparation for any potential requirement to scrutinise significant NHS plans for service change (Substantial Variation in Service: SViS) across two or more upper-tier local authority areas (Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council).

## **3. Resources**

- 3.1 Administration and venues for meetings of the JHOSC will be met from current health scrutiny support arrangements within the constituent authorities.

## **Factors taken into account**

### **4. Issues for consideration by the Select Committee**

To consider and approve that a JHOSC across West Sussex, Brighton & Hove, East Sussex and Surrey is established to consider any SViS which may arise from CEC and the STP, as set out in the report and the Terms of Reference attached at Appendix A are approved.

## **5. Consultation**

The Chairmen of the four HOSC/HASC involved have been consulted and have approved in principle the ToR as set out and that they be presented to each of the committees for formal approval.

## **6. Risk Management Implications/Other Options Considered/Equality Duty/Social Value/Crime Disorder Implications/Human Rights Implications**

- 6.1 Implications under these headings are not applicable at this stage but will form an explicit part of the JHOSCs substantive work.

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### **Appendices**

**Appendix A** – Draft JHOSC Terms of Reference

**Appendix B** – JHOSC Rules of Procedure