

WARRINGTON Borough Council



To: **Members of the Constitution Committee**
Councillors: C Fitzsimmons (Chair), B Axcell,
J Joyce, P Kennedy, B Maher,

Professor Steven Broomhead
Chief Executive

Town Hall
Sankey Street
Warrington
WA1 1UH

Constitution Committee; 7 April 2014 at 4:30 pm **No 2 Committee Room, Town Hall, Warrington**

Agenda prepared by Sharon Parker Councillor Services Manager
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AGENDA

Part 1

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

1. Code of Conduct – Declaration of Interests **Relevant Authorities (Disclosable Pecuniary Interests)** **Regulations 2012**

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

2. Minutes

Minutes of the meeting of the Committee held on 20 January 2014.

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3. Corporate Parenting Forum

Cllr J Carter and Cllr S Woodyatt (Chair and Deputy of the Corporate Parenting Forum) to attend

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Report of the Solicitor to the Council

4. Constitution Update 2014/15

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Report of the Solicitor to the Council

Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Information contained in this part 2 comprises the formal notice under Paragraph 5(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that a decision has been taken to hold this part of the meeting in private. Information is also provided against each item heading about the reasons for holding this part of the meeting in private, any representations received and the response to those representations.

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington

CONSTITUTION COMMITTEE 20 JANUARY 2014

Present: Councillors C Fitzsimmons (Chair), P Kennedy, B Maher, Cllr Axcell.

CC 1 Apologies

Councillor J Joyce.

CC 2 Code of Conduct – Declarations of Interest

There were no declarations of interest received.

CC 3 Minutes

The Minutes of the meeting held on 8 April 2013 were signed and agreed as a correct record.

CC 4 Changes to Constitution – Planning and Other Applications

The Committee received a report of the Development Manager seeking a number of changes to the Council's Constitution to further improve planning application performance, ensure value for money and minimise the potential for procedural errors.

The Planning Improvement Board and Development Management Committee supported the following:

- Removal of the requirement for Ward Councillors or Parish / Town Councils to complete a prescribed form when referring applications to committee and no need to refer to development plan policies but still a requirement to give planning reasons.
- Ward and Parish/Town Councils to refer planning applications to committee within 21 days of being consulted.
- All lawful development certificate applications and variation of condition applications to be considered at officer level.
- Removal of the objection trigger for referral of applications to the Planning Applications Sub Committee but continue to allow Ward Councillors to refer planning applications to committee.

Decision: That the Committee endorsed the proposed changes to the Constitution identified above in the bullet points and as per the appendix 1 to the report subject to a minor change which allowed for the specification of an actual closing date when consulting with Parish/Town on whether they wished an item to be referred to committee (2nd bullet point refers).

CC 5 Constitutional Matters

The Committee considered a series of issues referred to it by Council at its meeting held on 2 December 2013 and by individual Councillors since that meeting.

Matters included:

- The statement by the Leader

“Colleagues, you will be aware of correspondence from Councillor Bennett regarding a question that was not put to the Full Council Meeting on 21 October 2013. I wish to make it clear that I took the decision not to allow the question to be put because it had not cleared the political processes of my group. My decision was based solely on our agreed political protocol, which all group members have to adhere to. Kevin never submitted his question to the group; he also never contacted any group officers to get it accepted. I therefore had no option other than to ask the officers not to accept the question. The officers concerned provided me with the correct advice and, therefore, are blameless in all this; there was certainly no intention on my part to compromise the political neutrality of officers.

Following on from this, the whole issue of processes and procedures for any member to raise a question at Full Council should be subject to a discussion and review at the Constitutional Working Party. I will ask my colleague, Councillor Fitzsimmons to put it on their work programme and report back to Full Council.”

- In addition Councillor Marks moved the following motion, seconded by Councillor Axcell, at the 2nd December Council meeting:

“In the interest of openness and transparency, this Council agrees to investigate the introduction of a standing item at full Council for members to ask questions not previously notified”.

- The Mayor
Neutrality
Controlling the meeting
Checks and balances in his powers
- Questions
Supplementary questions
Relevance of Questions - Can more be dealt with outside of Council
- Extraordinary and Urgent Meetings of the Council
Procedure for calling a meeting.

The Committee considered each of the points in detail and recommended that Council should:

- (i) Alter Council Procedure Rule (CPR) 13.1b
 - to place a cap of 15 minutes on questions to the Leader;
 - stipulate in the Council Summons under the Leader’s Announcements that there is an opportunity for Members to ask Questions of the Leader relating to his/her announcements.

(ii) Alter CPR 13.9:

- to place a cap of 30 minutes for dealing with written questions from Councillors under CPR 13.2;
- to provide for all questions in this category to be taken as read; and
- to ensure that questions submitted to the meeting not receiving a verbal response at the meeting, within the 30 minute timescale, that written responses would be provided following the meeting.

CC 6 **Date of Next Meeting**

7 April 2014.

Signed

Dated.....

WARRINGTON BOROUGH COUNCIL

SCRUTINY COMMITTEE – 19 March 2014

Report of the: Katherine Fairclough, Deputy Chief Executive
Report Author: Julian Jonson, Principal Democratic Services Officer
Contact Details: **Email Address:** jjoinson@warrington.gov.uk **Telephone:** (01925) 442112
Ward Members: All

TITLE OF REPORT: PROTOCOL FOR THE ESTABLISHMENT OF JOINT HEALTH SCRUTINY ARRANGEMENTS FOR CHESHIRE AND MERSEYSIDE

1. PURPOSE

- 1.1 To approve a framework for the operation of joint health scrutiny arrangements across the local authorities of Cheshire and Merseyside, which will allow for:-
- scrutiny of substantial developments and variations of the health service; and
 - discretionary scrutiny of local health services.

2. CONFIDENTIAL OR EXEMPT

- 2.1 The report is not confidential or exempt.

3. INTRODUCTION AND BACKGROUND

- 3.1 The Health and Social Care Act 2001 and Regulations made in 2002 made amendments to the Local Government Act 2000, introducing powers for local authority overview and scrutiny committees to review and scrutinise matters relating to the health service and to act as a statutory consultee in respect of a 'substantial development or variation' proposed by certain NHS bodies affecting the local authority's area. The legislation did not define 'substantial development or variation' and it was for the individual authority to determine whether it wished to treat any change as such. Agreement that a proposal was 'substantial' would trigger a formal consultation process. The Act also made provision for health scrutiny functions to be discharged by joint committees in certain circumstances.
- 3.2 The statutory consultee role also included a power to make a referral to the Secretary of State for Health if an authority was not adequately consulted or was not satisfied that the changes were in the interest of the health service in the area. Where substantial proposals related to more than one local authority area, a Direction of the Secretary of State provided that the consultation phase should be undertaken by a joint committee of those authorities who had determined that

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the proposal was substantial. Referrals to the Secretary of State could be made by individual authorities or delegated to that joint committee.

4. CURRENT LEGISLATION

4.1 The health scrutiny powers have been gradually refined over a period of time through subsequent legislation, with the latest revisions being enacted by the Localism Act 2011, the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. A summary of the main changes is as follows:-

- The health scrutiny powers now reside with the Council, which may delegate these to a committee (if it does not operate executive arrangements) or an overview and scrutiny committee (if it does operate executive arrangements) In Warrington, the role of statutory health service consultee has been delegated to the Scrutiny Committee;
- The health scrutiny powers have been extended to cover all providers of NHS-funded services (including private sector providers);
- For proposals which are substantial variations, the promoter (responsible person) is required to let the authority know the deadline for receipt of any comments by the scrutiny function and the date by which it intends to make a decision whether to proceed with the proposal;
- Where the promoter of a proposal is a service provider and the proposal relates to services which the CCG or NHS England is responsible for arranging, the commissioning body must undertake the consultation role on behalf of the provider;
- Where the promoter of a proposal (responsible person) does not agree with any comments submitted by scrutiny following a statutory consultation, there is a duty on all parties to take such reasonable steps as is practicable to try to reach an agreement prior to any referral being made to the Secretary of State;
- Where individual local authorities agree that a proposal is a substantial variation and the proposals cover more than one local authority area, a joint committee must be established. Only that joint committee may exercise the scrutiny powers, including the right of referral to the Secretary of State.

5. LOCAL EXPERIENCE OF JOINT HEALTH SCRUTINY

- 5.1 Members will be aware that Warrington recently led a joint scrutiny review of vascular services which included representation from Halton and St Helens. That review took place before the changes in legislation outlined above were in force.
- 5.2 Although the outcome of the review did not fully achieve the aims of that Joint Health Overview and Scrutiny Committee (HOSC), the exercise was successful on a number of levels. It provided positive experience of working with other local authorities to listen to information from proposers, engage with the public and

other stakeholders, review evidence and reach some common conclusions. It also helped to raise the profile of the underlying consultation, ensured that residents' views were taken into account by the proposers and made the best use of limited local authority and NHS resources to carry out the consultation.

6. NATIONAL AND REGIONAL CONTEXT

- 6.1 The Committee will recall that it received a presentation at its meeting on 10 December 2013 from representatives of Cheshire, Warrington and Wirral NHS England Area Team, which provided an update on the vascular services review. The presentation also included an overview of the commissioning landscape. Cheshire, Warrington and Wirral NHS England Area Team was the lead Area Team for the commissioning of specialised services in the North West (excluding the majority of Cumbria). Members heard that the Area Team commissioned local primary care and specialised services, against a backdrop of national standards and rules. These included the recommendations of Clinical Reference Groups and the application of national Standards. There were currently a number of drivers for change, which included government policy, national approaches to the health service and local change programmes.
- 6.2 A compliance regime existed within the NHS and the Area Team used this to measure the effectiveness of all the NHS Trusts in the North West. This has led to the identification of a number of gaps, which need to be met by one of two methods:-
- a process of 'derogation' (a temporary delay in meeting commissioning requirements with a view to full implementation in the future); and
 - commissioner reviews (which might lead to reconfigurations where significant issues were identified)
- 6.3 The vascular services review was the first of a number of significant service reviews under consideration in the region. Further reviews will include the following:-
- child and adolescent mental health service (CAMHS);
 - neuro-rehabilitation;
 - cancer surgery
 - HIV
- 6.4 It is likely that these reviews will result in formal consultation about service changes. The Area Team intend to synchronise these changes with other on-going and interconnected changes in the system. As was the case with the vascular services review, clinical evidence may point to the need for specialist services to be delivered at centres of excellence, with a network of satellite provision. In general, this approach ensures that:-

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- clinicians deal with sufficient numbers of patients to gain experience and maintain high levels of competence;
 - access to 24 hour cover is improved;
 - access to specialist equipment is improved;
 - the patient experience is improved with more successful outcomes;
 - local hospitals continue to deal with less complex issues and provide other support.
- 6.5 Any proposals arising from reviews of specialised services are likely to have an impact across the sub-region. This would require the formation of a joint HOSC across those authorities which deemed the proposals to be substantial.
- 6.6 Representatives of NHS England have recently attended two member and officer events in the North West, to raise the profile of the likely changes and to discuss how best to engage with scrutiny across the region. The events included NWE0's Strategic Scrutiny Network meeting on 5 March and CfPS/NW Strategic Scrutiny Officers Network health event on 12 March 2014. A common theme emerging is the need for joint scrutiny processes to be developed.
- 6.7 The Committee will also recall that at its last meeting it received a report on the outcome of a pre-consultation on the review of cancer services across the region commissioned by the Merseyside and Cheshire Cancer Network (MCCN). The Clatterbridge Cancer Centre NHS Foundation Trust (CCC) are in the process of developing a business case to build a new cancer centre in Liverpool to provide all oncology inpatient services and associated radiotherapy, chemotherapy and outpatient services that the Trust is responsible for. The Trust's Wirral site will be retained and continue to provide outpatient radiotherapy and chemotherapy treatments for Wirral and West Cheshire patients who find it easier to access the Wirral site rather than Liverpool. CCC will also retain the satellite radiotherapy facility on the Aintree site and will continue to provide services in the existing clinics in hospitals across the region.
- 6.8 The formal consultation phase of this proposal is imminent and is likely to require the establishment of a Joint HOSC.

7. ESTABLISHMENT OF A JOINT PROTOCOL

- 7.1 In the light of the above information, it is clear that there are likely to be a number regional or sub-regional reviews taking place over the next few years, which may have an impact on Warrington residents. It is probable that these will be seen as substantial variations by a number of authorities, including Warrington, and will, therefore, require the establishment of a Joint HOSC. Experience from the review of vascular services has shown that it can take a considerable length of time to reach agreement upon and to establish a joint HOSC. This process can potentially reduce the time available for the joint committee to carry out its evidence gathering and review activities during the formal consultation period.

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Establishment of a Joint Protocol will provide an off-the-shelf model for joint scrutiny enabling a Joint HOSC to be established quickly and efficiently.

- 7.2 Having an agreed Protocol in place prior to any formal reviews being announced is considered to be best practice. Lancashire and Manchester authorities already have joint arrangements in place for health scrutiny. Scrutiny officers in Cheshire and Warrington, led by colleagues at Knowsley MBC, have been working closely to develop a Protocol which will operate for this sub-region. A draft document has been produced (attached at **Appendix A**) and individual authorities are being asked to consider its approval. The case for approving this document is strengthened by the fact that the formal consultation on cancer services is imminent.

8. CONTENT OF THE DRAFT PROTOCOL

- 8.1 The main content of the draft Protocol is as follows:-

- an introduction to the scope of the document;
- summary of the legislation and background to joint scrutiny;
- the purpose of the Protocol and signatory authorities;
- the principles for joint health scrutiny
- substantial development/variations to services - consultation and consideration;
- rules for operation of the Joint HOSC; and
- discretionary health scrutiny.

- 8.2 Some key features of the operational rules included in the Protocol are described below. Each authority will separately need to take a decision as to whether it considers the proposals to be a substantial development/variation and some guiding principles are set out in the Protocol. The Joint HOSC will only comprise those councils which deem the proposals to be substantial.

- 8.3 The powers of the joint HOSC include the right to require attendance by relevant NHS bodies and health service providers to provide information and to answer questions. The Joint HOSC has a right to make comments on any proposals and to make reports and recommendations. The protocol clarifies that there is an expectation that the Joint HOSC will enter into negotiations with the relevant NHS body or health service provider where the Committee disagrees with any proposal in order to try to reach an agreement. The Joint HOSC alone has the power to make a referral to the Secretary of State.

- 8.4 The membership of the Joint HOSC will depend on the number of participating authorities within Cheshire and Merseyside for each specific review. A maximum number of 9 authorities may participate. The following table shows how membership will be calculated in a variety of circumstances:-

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Local authorities who consider the change to be 'substantial'	No. of elected members to be nominated from each authority
8 or more	1 member
between 4 and 7	2 members
3 or less	3 members

- 8.5 For Warrington, nominations will need to be made by Council and it is suggested that this should be carried out as part of the usual committee allocations process at Annual Council. Council should only nominate members of the Scrutiny Committee to serve on the Joint HOSC. It is suggested that Council should nominate 3 members, in ranked order, to enable 1, 2 or 3 members to be appointed, as appropriate. Appointments to the Joint HOSC should, in so far as is reasonably practicable, be politically balanced, which would give the following pattern of appointments under the current political balance calculation:-
- first appointee - Labour
 - second appointee - Labour
 - third appointee - Liberal/Democrat
- 8.6 This provisional allocation will need to be reconsidered following the election, to comply with the political balance calculation as at that date.
- 8.7 The quorum of the Joint HOSC will be one quarter of the total membership and in any event not less than 3. It is not a requirement for every authority to be represented at each meeting, but every effort will be made to try to ensure this.
- 8.8 The Chair of the Joint HOSC will be appointed by the Committee at its first meeting for each review. Also at that meeting, the terms of reference, procedural rules and timeframe for the review will be determined. There will be a lead authority for each review identified from among the participating authorities, chosen by mutual agreement and taking into account both capacity and resources. It is likely that the lead authority will be the authority in whose area the substantive service change will occur, or where the lead commissioner or provider is based.
- 8.9 The Joint HOSC's final report will be agreed by a simple majority of committee members. Where a member, or members do not agree with the content of that final report, they may produce a report setting out their findings and recommendations, which will be attached as an appendix to the committee's main report.

9. TIMETABLE FOR APPROVAL

- 9.1 The timetable for approval of the Protocol in Warrington and across Cheshire and Merseyside is as follows:-

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Approval Stage	Warrington	Other Authorities
Scrutiny Committee	19 March 2014	February – April 2014
Constitutional Committee	7 April 2014	March 2014 (where equivalent body exists)
Annual Council	9 June 2014	April - June 2014 (Council)

9.2 It is hoped that the Protocol will have been agreed by all Cheshire and Merseyside authorities by mid-June 2014.

7. FINANCIAL CONSIDERATIONS

7.1 Any costs for the carrying out of Joint HOSC activities, including officer support and travel costs, can be contained within existing budgets.

8. RISK ASSESSMENT

8.1 A delay or inability to agree to a Joint Protocol will put the Council at risk of not being able to engage effectively in health scrutiny at the regional and sub-regional levels. Where a proposal is considered to be a 'substantial development or variation' and more than one authority so agrees, a joint HOSC must be established to carry out the health scrutiny functions. Failure to participate in a Joint HOSC will leave the Council without a voice in any decision to refer a matter to the Secretary of State.

9. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

9.1 Democratic and Member Services has carried out an Equality Impact Assessment of its functions and services and has an Action Plan in place. Effective health scrutiny will help to safeguard the planning and delivery of health services across groups comprising all protected characteristics.

10. CONSULTATION

10.1 NHS England has consulted with Members and officers at two regional scrutiny network events about the principles of engagement for large scale reviews of health services. The draft Protocol is subject to approval by all authorities in Cheshire and Warrington.

11. RECOMMENDATION

11.1 To recommend the Constitutional Committee to recommend to Annual Council:-

11.1.1 To note the national and regional context regarding health service provision;

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11.1.2 To note the legislative changes concerning health scrutiny in respect of substantial developments/variations which involve more than one local authority;

11.1.3 To approve to the Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside, as set out at Appendix A; and

11.1.4 To approve, as part of its annual process for making appointments to committees, the appointment of 3 elected members (ranked in order subject to the political balance rules), for allocation to any Joint Health Overview and Scrutiny Committee established under the Protocol;

12. BACKGROUND PAPERS

Notes and meeting papers held by Democratic and Member Services about the establishment of joint health scrutiny arrangements

Contacts for Background Papers:

Name	E-mail	Telephone
Julian Joinson	jjoinson@warrington.gov.uk	(01925) 442112

WARRINGTON BOROUGH COUNCIL

Constitution Committee – 7 April 2014

Report of: Timothy Date, Solicitor to the Council

Report Authors: Bryan Magan, Head of Democratic and Member Services and Sharon Parker - Councillor Services Manager

Contact Details:

Email Address:	Telephone:
bmagan@warrington.gov.uk	01925 442120
szparker@warrington.gov.uk	01925 442161

Ward Members: All

TITLE OF REPORT: CONSTITUTIONAL CHANGES

1. PURPOSE

1.1 To provide the Committee with details of changes to and potential changes to the Council's Constitution.

2. CONFIDENTIAL OR EXEMPT

2.1 This report is not confidential or exempt.

3. LEGISLATIVE/REQUIRED CHANGES TO THE CONSTITUTION

3.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 make it mandatory for councils to amend their Standing Orders so as to include provisions requiring recorded votes on any decision relating to the budget or Council Tax at budget meetings. The amendment to the Council's Constitution will be reported to the Council meeting scheduled for the 9 June 2014.

3.2 The Council's Scrutiny Committee considered a report (attached as an Appendix) with a recommendation to approve a Joint Health Scrutiny Protocol for Cheshire and Merseyside. It is anticipated that there will be a number of regional/sub-regional changes to health services over the next few years, which will constitute 'substantial variations'. If the changes are wider than the Warrington footprint, Regulations require the Council to establish a joint OSC with the other authorities affected (members may recall that the authority did this for the review of vascular services).

3.3 The Protocol will allow a joint health scrutiny committee to be convened quickly, to a standard membership, as and when a joint HOSC is needed. The Protocol will ensure a consistent and systematic approach to dealing with all future large scale consultations on publicly funded health service changes.

- 3.4 There is a need for this to be approved at Annual Council this year because a review of cancer services in the region is due to start imminently.
- 3.5 The amendment to the Council's Constitution will be reported to the Council meeting scheduled for the 9 June 2014.
- 3.6 The proposed regulations under Local Audit and Accountability Act 2014 that relate to filming/broadcasting of council meetings will need to be considered for possible inclusion in the Constitution. A report will be brought back to this Committee when more details are known.

4. COMMITTEE CHANGES

- 4.1.1 Traditionally at this time of year consideration is given to whether any changes are required to the committee structure including the size and remit of Committees in advance of the Annual Meeting of the Council.
- 4.1.2 The current membership of committees is attached as an appendix to the report.
- 4.1.3 Members will note that there are 2 Labour vacancies on the Licensing Committee. Under the Licensing Act 2003 this Committee has to have a minimum membership of 10 and a maximum of 15. This Committee currently has a membership of 15.
- 4.1.4 Representations have been received regarding the re-establishment of the Constitution Committee as a Sub Committee of the Audit and Corporate Governance Committee. This would allow for a wider discussion on governance items.
- 4.1.5 The Development Management and Planning Applications Sub Committee are due to be further reviewed in the summer. There will therefore be a further opportunity to discuss any changes recommended at this point.
- 4.1.6 The terms of reference of the Appeals Committee, Chief Officer Employment Committee and the Staff Procedure Rules are currently being reviewed by officers. Any further proposed changes will be reported to the Annual Meeting for decision as appropriate.

5. FINANCIAL CONSIDERATIONS

- 5.1 To be accommodated within existing resources.

6. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

- 6.1 The aim of the recommendations is to encourage inclusive and full participation of all members.

7. REASONS FOR RECOMMENDATION

- 7.1 To provide clarity regarding the application of the Constitution.

8. RECOMMENDATION

8.1 Decision –

The Committee

- (1) recommends that Council approves the recommendations detailed in paragraphs 3.1 to 3.5 above
- (2) Notes the forthcoming legislation - Local Audit and Accountability Act 2014.
- (3) considers the points made in paragraphs 4.1.1- 4.1.5 above and makes recommendations as appropriate.
- (4) recommends that Council alters the Constitution to take into account these amendments

9. BACKGROUND PAPERS

Files held by Sharon Parker, Democratic and Member Services.

MEMBERSHIP OF COMMITTEES 2013/14

POLICY & SCRUTINY COMMITTEES

PROTECTING THE VULNERABLE 6:2:1 (9)		
P BRETHERTON	LAB	CHAIR
J CARTER	LAB	DEPUTY CHAIR
A DIRIR	LAB	
J GUTHRIE	LAB	
B LINES-ROWLANDS	LAB	
K SIMCOCK	LAB	
E FINNEGAN	L/D	
J WALKER	L/D	
S WOODYATT	CONS	

SUPPORTING THE LOCAL ECONOMY 6:2:1 (9)		
D PRICE	LAB	CHAIR
T WILLIAMS	LAB	DEPUTY CHAIR
W HUGHES	LAB	
S PARISH	LAB	
F RAHSID	LAB	
G SETTLE	LAB	
R BARR	L/D	
C JORDAN	L/D	
L HOYLE	CON	

ORGANISATIONAL IMPROVEMENT AND DEVELOPMENT 6:2:1 (9)		
J KERR-BROWN	LAB	CHAIR
L MURPHY	LAB	DEPUTY CHAIR
L LADBURY	LAB	
D PRICE	LAB	
T WILLIAMS	LAB	
S WRIGHT	LAB	
P WALKER	L/D	
T WOOD	L/D	
P KENNEDY	CON	

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BUILDING STRONGER COMMUNITIES 6:2:1 (9)		
M McLAUGHLIN	LAB	CHAIR
K SIMCOCK	LAB	DEPUTY CHAIR
W HUGHES	LAB	
A DIRIR	LAB	
J RICHARDS	LAB	
S ROBERTS	LAB	
M BIGGIN	L/D	
K GLEAVE	L/D	
S BLAND	CON	

SCRUTINY 6:2:1 (9)		
T HIGGINS	LAB	CHAIR
B LINES ROWLANDS	LAB	DEPUTY CHAIR
C FITZSIMMONS	LAB	
G FRIEND	LAB	
J GUTHRIE	LAB	
H MUNDY	LAB	
W JOHNSON	L/D	
I MARKS	L/D	
L HOYLE	CONS	

REGULATORY AND OTHER COMMITTEES

APPEALS 5:1:1 (7)		
P NELSON	LAB	CHAIR
J CARTER	LAB	
K HANNON	LAB	
T HIGGINS	LAB	
A DIRIR	LAB	
M BIGGIN	L/D	
P KENNEDY	CONS	

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DEVELOPMENT MANAGEMENT COMMITTEE 9:2:1 (12)		
T McCARTHY	LAB	CHAIR
J RICHARDS	LAB	DEPUTY CHAIR
L LADBURY	LAB	
M MCLAUGHLIN	LAB	
S WRIGHT	LAB	
F RASHID	LAB	
G SETTLE	LAB	
L MURPHY	LAB	
J DAVIDSON	LAB	
C JORDAN	L/D	
B BARR	L/D	
S WOODYATT	CON	

PLANNING APPLICATIONS SUB COMMITTEE 5:1:1 (7)		
T McCARTHY	LAB	CHAIR
J RICHARDS	LAB	DEPUTY CHAIR
Vacancy	LAB	
L LADBURY	LAB	
L MURPHY	LAB	
B BARR	L/D	
S WOODYATT	CON	

LICENSING 11:3:1 (15)		
B MAHER	LAB	CHAIR
P NELSON	LAB	DEPUTY CHAIR
W BRINKSMAN	LAB	
J JOYCE	LAB	
L LADBURY	LAB	
H MUNDRY	LAB	
T McCARTHY	LAB	
S ROBERTS	LAB	
S WRIGHT	LAB	
VACANT	LAB	
VACANT	LAB	
K GLEAVE	L/D	
G WELBORN	L/D	
E FINNEGAN	L/D	
S BLAND	CONS	

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TAXI SUB-COMMITTEE 2:1:0 (3 from 15)		

LICENSING SUB-COMMITTEE 2:1:0 (3 from 15)		

PAVEMENT CAFÉ LICENSING SUB-COMMITTEE 2:1:0 (3 from 15) Membership to include the Chair or Deputy Chair of the Licensing Committee.		

NB Membership for the Sub-Committees to be drawn from the parent committee on an *ad hoc* basis and with regard to the political balance wherever practicable

TRAFFIC 5:1:1 (7)		
B BRINKSMAN	LAB	CHAIR
S PARISH	LAB	DEPUTY CHAIR
G SETTLE	LAB	
T McCARTHY	LAB	
S ROBERTS	LAB	
B AXCELL	L/D	
L HOYLE	CONS	

CHIEF OFFICER EMPLOYMENT 3:1:1 (5)		
T O'NEILL	LAB	CHAIR
M HANNON	LAB	DEPUTY CHAIR
K HANNON	LAB	
I MARKS	L/D	
P KENNEDY	CON	

MAYORAL SELECTION 2:1:1 (4)		
T O'NEILL	LAB	CHAIR
M HANNON	LAB	DEPUTY CHAIR
I MARKS	L/D	
P KENNEDY	CON	

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AUDIT AND CORPORATE GOVERNANCE COMMITTEE 8:2:1 (11)		
C FITZSIMMONS	LAB	CHAIR
P BRETHERTON	LAB	DEPUTY CHAIR
C VOBE	LAB	
J DAVIDSON	LAB	
G FRIEND	LAB	
J JOYCE	LAB	
J KERR BROWN	LAB	
S PARISH	LAB	
B AXCELL	L/D	
I MARKS	L/D	
P KENNEDY	CONS	

CONSTITUTION COMMITTEE 3:1:1 (5)		
C FITZSIMMONS	LAB	CHAIR
B MAHER	LAB	
J JOYCE	LAB	
B AXCELL	L/D	
P KENNEDY	CONS	

STANDARDS COMMITTEE 3:1:1 (5)		
C FITZSIMMONS	LAB	Chair
B MAHER	LAB	
T McCARTHY	LAB	
J WALKER	L/D	
S BLAND	CONS	

HEALTH AND WELLBEING BOARD (OPERATIONAL FROM 1/04/13)

Chair –

- Interim Chief Executive of Warrington Borough Council, Professor Steven Broomhead,

Warrington Borough Council

- Leader of the Council, Councillor T O'Neill
- Health & Wellbeing and Adult Services Executive Lead Member, Councillor P Wright
- Children & Young People's Services Executive Lead Member, Councillor C Froggatt
- Opposition Spokesperson, Councillor I Marks
- *Director responsible for Adult Social Care

Agenda Item 4

Appendix

- Executive Director Children & Young People's Services, Kath O'Dwyer
- Director of Public Health, Dr Rita Robertson

* Further details to be provided following senior staffing restructure in June.

CHESHIRE POLICE AND CRIME PANEL

B MAHER	LAB	
T HIGGINS	LAB	

Opposition Spokespersons

• External relationships & People	I Marks – Leader L/D
• Regeneration & IT	B Barr – Deputy L/D
• Environment & Climate Change & Transport	B Axcell
• Public Protection	M Biggin
• Finance & Efficiency	P Walker
• Neighbourhoods & Communities	T Finnegan
• Leisure and Skills	M Biggin
• Education & Young People	P Walker
• Health	W Johnson
• Adult and Children's Social Care	G Welborn

Conservative Group Shadow Spokespersons

Name	Role	
P Kennedy	Leader of the Group	
L Hoyle	Deputy Leader of the Group	

Please note individual committee members will act as spokespersons for the group.

**PROTOCOL FOR ESTABLISHMENT OF JOINT HEALTH SCRUTINY
ARRANGEMENTS FOR CHESHIRE AND MERSEYSIDE**

1. INTRODUCTION

- 1.1 This protocol has been developed as a framework for the operation of joint health scrutiny arrangements across the local authorities of Cheshire and Merseyside. It allows for:
- scrutiny of substantial developments and variations of the health service; and,
 - discretionary scrutiny of local health services
- 1.2 The protocol provides a framework for health scrutiny arrangements which operate on a joint basis only. Each constituent local authority should have its own local arrangements in place for carrying out health scrutiny activity individually.

2. BACKGROUND

- 2.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 came into effect on 1 April 2013 revising existing legislation regarding health scrutiny.
- 2.2 In summary, the revised statutory framework authorises local authorities to:
- review and scrutinise any matter relating to the planning, provision and operation of the health service; and,
 - consider consultations by a relevant NHS body or provider of NHS-funded services on any proposal for a substantial development or variation to the health service in the local authority's area.
- 2.3 Ultimately the regulations place a requirement on relevant scrutiny arrangements to reach a view on whether they are satisfied that any proposal that is deemed to be a substantial development or variation is in the interests of the health service in that area, or instead, that the proposal should be referred to the Secretary of State for Health. In instances where a proposal impacts on the residents of one local authority area exclusively, this responsibility lays with that authority's health scrutiny arrangements alone.
- 2.4 Where such proposals impact on more than one local authority area, each authority's health scrutiny arrangements must consider whether the proposals constitute a substantial development or variation or not. The regulations place a requirement on those local authorities that agree that a proposal is substantial to establish, in each instance, a joint overview and scrutiny committee for the purposes of considering it. This protocol deals with the

proposed operation of such arrangements for the local authorities of Cheshire and Merseyside.

3. PURPOSE OF THE PROTOCOL

3.1 This protocol sets out the framework for the operation of joint scrutiny arrangements where:

- a) an NHS body or health service provider consults with more than one local authority on any proposal it has under consideration, for a substantial development/variation of the health service;
- b) joint scrutiny activity is being carried out on a discretionary basis into the planning, provision and operation of the health service

3.2 The protocol covers the local authorities of Cheshire and Merseyside including:

- Cheshire East Council
- Cheshire West and Chester Council
- Halton Borough Council
- Knowsley Council
- Liverpool City Council
- St. Helens Metropolitan Borough Council
- Sefton Council
- Warrington Borough Council
- Wirral Borough Council

3.3 Whilst this protocol deals with arrangements within the boundaries of Cheshire and Merseyside, it is recognised that there may be occasions when consultations/discretionary activity may affect adjoining regions/ areas. Arrangements to deal with such circumstances would have to be determined and agreed separately, as and when appropriate.

4. PRINCIPLES FOR JOINT HEALTH SCRUTINY

4.1 The fundamental principle underpinning joint health scrutiny will be co-operation and partnership with a mutual understanding of the following aims:

- To improve the health of local people and to tackle health inequalities;
- To represent the views of local people and ensure that these views are identified and integrated into local health service plans, services and commissioning;

- To scrutinise whether all parts of the community are able to access health services and whether the outcomes of health services are equally good for all sections of the community; and,
- To work with NHS bodies and local health providers to ensure that their health services are planned and provided in the best interests of the communities they serve.

5. SUBSTANTIAL DEVELOPMENT/VARIATION TO SERVICES

5.1 Requirements to consult

- 5.1.1 All relevant NHS bodies and providers of NHS-funded services¹ are required to consult local authorities when they have a proposal for a substantial development or substantial variation to the health service.
- 5.1.2 A substantial development or variation is not defined in legislation. Guidance has suggested that the key feature is that it should involve a major impact on the services experienced by patients and/or future patients.
- 5.1.3 Where a substantial development or variation impacts on the residents within one local authority area boundary, only the relevant local authority health scrutiny function shall be consulted on the proposal.
- 5.1.4 Where a proposal impacts on residents across more than one local authority boundary, the NHS body/health service provider is obliged to consult all those authorities whose residents are affected by the proposals in order to determine whether the proposal represents a substantial development or variation.
- 5.1.5 Those authorities that agree that any such proposal does constitute a substantial development or variation are obliged to form a joint health overview and scrutiny committee for the purpose of formal consultation by the proposer of the development or variation.
- 5.1.6 Whilst each local authority must decide individually whether a proposal represents a substantial development/variation, it is only the statutory joint health scrutiny committee which can formally comment on the proposals if more than one authority agrees that the proposed change is “substantial”.
- 5.1.7 Determining that a proposal is not a substantial development/variation removes the ability of an individual local authority to comment formally on the proposal and exercise other powers, such as the power to refer to the Secretary of State. Once such decisions are made, the ongoing obligation on the proposer to consult formally on a proposal relates only to those authorities

¹ This includes the NHS England, any Clinical Commissioning Group providing services to the residents of Cheshire and Merseyside, an NHS Trust, an NHS Foundation Trust and any other relevant provider of NHS funded services which provides health services to those residents, including public health.

that have deemed the proposed change to be “substantial” and this must be done through the vehicle of the joint committee. Furthermore the proposer will not be obliged to provide updates or report back on proposals to individual authorities that have not deemed them to be “substantial”.

5.2 Process for considering proposals for a substantial development/variation

5.2.1 In consulting with the local authority in the first instance to determine whether the change is considered substantial, the NHS body/ provider of NHS-funded service is required to:

- Provide the proposed date by which it requires comments on the proposals
- Provide the proposed date by which it intends to make a final decision as to whether to implement the proposal
- Publish the dates specified above
- Inform the local authority if the dates change²

5.2.3 NHS bodies and local health service providers are not required to consult with local authorities where certain ‘emergency’ decisions have been taken. All exemptions to consult are set out within regulations.³

5.2.4 In considering whether a proposal is substantial, all local authorities are encouraged to consider the following criteria:

- *Changes in accessibility of services:* any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location.
- *Impact on the wider community and other services:* This could include economic impact, transport, regeneration issues.
- *Patients affected:* changes may affect the whole population, or a small group. If changes affect a small group, the proposal may still be regarded as substantial, particularly if patients need to continue accessing that service for many years.
- *Methods of service delivery:* altering the way a service is delivered may be a substantial change, for example moving a particular service into community settings rather than being entirely hospital based.
- *Potential level of public interest:* proposals that are likely to generate a significant level of public interest in view of their likely impact.

² Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

³ Section 24 *ibid*

5.2.5. This criteria will assist in ensuring that there is a consistent approach applied by each authority in making their respective decisions on whether a proposal is “substantial” or not. In making the decision, each authority will focus on how the proposals impacts on its own area/ residents.

6. OPERATION OF A STATUTORY JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE

6.1 General

6.1.1 A joint health overview and scrutiny committee will be made up of each of the constituent local authorities that deem a proposal to be a substantial development or variation. This joint committee will be formally consulted on the proposal and have the opportunity to comment. It will also be able to refer to the Secretary of State for Health if any such proposal is not considered to be in the interests of the health service.

6.1.2 A decision as to whether the proposal is deemed substantial shall be taken within a reasonable timeframe and in accordance with any deadline set by the lead local authority, following consultation with the other participating authorities.

6.2 Powers

6.2.1 In dealing with substantial development/variations, any statutory joint health overview and scrutiny committee that is established can:

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make comments on the subject proposal by a date provided by the NHS body/local health service provider
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- carry out further negotiations with the relevant NHS body where it is proposing not to agree to a substantial variation proposal; and
- where agreement cannot be reached, to notify the NHS body of the date by which it intends to make the formal referral to the Secretary of State

6.2.2 A joint health overview and scrutiny committee has the power to refer a proposal to the Secretary of State if:

- the committee is not satisfied that consultation with the relevant health scrutiny arrangements on any proposal has been adequate
- it is not satisfied that reasons for an ‘emergency’ decision that removes the need for formal consultation with health scrutiny are adequate

- it does not consider that the proposal would be in the interests of the health service in its area

6.2.3 Where a committee has made a recommendation to a NHS body/local health service provider regarding a proposal and the NHS body/provider disagrees with the recommendation, the local health service provider/NHS body is required to inform the joint committee and attempt to enter into negotiation to try and reach an agreement. In this circumstance, a joint committee has the power to report to the Secretary of State if:

- relevant steps have been taken to try to reach agreement in relation to the subject of the recommendation, but agreement has not been reached within a reasonable period of time; or,
- There has been no attempt to reach agreement within a reasonable timeframe.

6.2.4 Where a committee disagrees with a substantial variation and has either made comments (without recommendations) or chosen not to provide any comments, it can report to the Secretary of State only if it has:

- Informed the NHS body/local health service provider of its decision to disagree with the substantial variation and report to the Secretary of State; or,
- Provided indication to the NHS body/local health service provider of the date by which it intends to make a referral.

6.2.5 In any circumstance where a committee disagrees with a proposal for a substantial variation, there will be an expectation that negotiations will be entered into with the NHS body/local health service provider in order to attempt to reach agreement.

6.2.6 Where local authorities have agreed that the proposals represent substantial developments or variations to services and agreed to enter into joint arrangements, it is only the joint health overview and scrutiny committee which may exercise these powers.

6.2.7 A statutory joint health overview and scrutiny committee established under the terms of this protocol may only exercise the powers set out in 6.2.1 to 6.2.3 above in relation to the statutory consultation for which it was originally established. Its existence is time-limited to the course of the specified consultation and it may not otherwise carry out any other activity.

6.3 Membership

6.3.1 Each participating local authority should ensure that those Councillors it nominates to a joint health overview and scrutiny committee reflect its own political balance.⁴ However, overall political balance requirements may be waived with the agreement of all participating local authorities.

⁴ Localism Act 2011, Schedule 2 9FA, 6 (b)

6.3.2 A joint committee will be composed of Councillors from each of the participating authorities within Cheshire and Merseyside in the following ways:

- where 8 or more local authorities deem the proposed change to be substantial – the joint health overview and scrutiny committee will consist of 1 nominated elected member from each participating authority (or a nominated substitute)
- where between 4 and 7 local authorities deem the proposed change to be substantial, each authority will nominate 2 elected members
- where 3 or less local authorities deem the proposed change to be substantial, then each participating authority will nominate 3 elected members.

(Note: In making their nominations, each participating authority will be asked to ensure that their representatives have the experience and expertise to contribute effectively to a health scrutiny process)

Local authorities who consider change to be ‘substantial’	No’ of elected members to be nominated from each authority
8 or more	1 member
Between 4 and 7	2 members
3 or less	3 members

6.3.3 Each local authority will be obliged to nominate elected members through their own relevant internal processes and provide notification of those members to the lead local administrative authority at the earliest opportunity.

6.3.4 To avoid inordinate delays in the establishment of a relevant joint committee, it is suggested that constituent authorities arrange for delegated decision making arrangements to be put in place to deal with such nominations at the earliest opportunity.

6.5 Quorum

6.5.1 The quorum of the meetings of a joint committee shall be one quarter of the full membership of any Joint Committee, subject to the quorum being, in each instance, no less than 3.

6.5.2 There will be an expectation for there to be representation from each authority at a meeting of any joint committee established. The lead local authority will attempt to ensure that this representation is achieved.

6.6 Identifying a lead local authority

6.6.1 A lead local authority should be identified from one of the participating authorities to take the lead in terms of administering and organising a joint committee in relation to a specific proposal.

6.6.2 Selection of a lead authority should, where possible, be chosen by mutual agreement by the participating authorities and take into account both capacity to service a joint health scrutiny committee and available resources. The application of the following criteria should also guide determination of the lead authority:

- The local authority within whose area the service being changed is based; or
- The local authority within whose area the lead commissioner or provider leading the consultation is based.

6.6.3 Lead local authority support should include a specific contact point for communication regarding the administration of the joint committee. There will be an obligation on the key lead authority officer to liaise appropriately with officers from each participating authority to ensure the smooth running of the joint committee.

6.6.4 Each participating local authority will have the discretion to provide whatever support it may deem appropriate to their own representative(s) to allow them to make a full contribution to the work of a joint committee.

6.7 Nomination of Chair/ Vice-Chair

The chair/ vice-chair of the joint health overview and scrutiny committee will be nominated and agreed at the committee's first meeting. It might be expected that consideration would be given to the chair being nominated from the representative(s) from the lead authority.

6.8 Meetings of a Joint Committee

6.8.1 At the first meeting of any joint committee established to consider a proposal for a substantial development or variation, the committee will also consider and agree:

- The joint committee's terms of reference;
- The procedural rules for the operation of the joint committee;
- The process/ timeline for dealing formally with the consultation, including:
 - the number of sessions required to consider the proposal; and
 - the date by which the joint committee will make a decision as to whether to refer the proposal to the Secretary of State for Health – which should be in advance of the proposed date by which the NHS body/service provider intends to make the decision.

6.8.2 All other meetings of the joint committee will be determined in line with the proposed approach for dealing with the consultation. Different approaches may be taken for each consultation and could include gathering evidence from:

- NHS bodies and local service providers;
- patients and the public;
- voluntary sector and community organisations; and
- NHS regulatory bodies.

6.9 Reports of a Joint Committee

6.9.1 A joint committee is entitled to produce a written report which may include recommendations. As a minimum, the report will include:

- An explanation of why the matter was reviewed or scrutinised
- A summary of the evidence considered
- A list of the participants involved in the review
- An explanation of any recommendations on the matter reviewed or scrutinised

The lead authority will be responsible for the drafting of a report for consideration by the joint committee.

6.9.2 Reports shall be agreed by the majority of members of a joint committee and submitted to the relevant NHS body/health service provider or the Secretary of State as applicable.

6.9.3 Where a member of a joint health scrutiny committee does not agree with the content of the committee's report, they may produce a report setting out their findings and recommendations which will be attached as an appendix to the joint health scrutiny committee's main report.

7. DISCRETIONARY HEALTH SCRUTINY

- 7.1 More generally, the Health and Social Care Act 2012 and the 2013 Health Scrutiny Regulations provide for local authority health scrutiny arrangements to scrutinise the planning, provision and operation of health services.
- 7.2 In this respect, two or more local authorities may appoint a joint committee for the purposes of scrutinising the planning, provision and operation of health services which impact on a wider footprint than that of an individual authority's area.
- 7.3 Any such committee will have the power to:
- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
 - make reports and recommendations to relevant NHS bodies/local health providers
 - require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- 7.4 A discretionary joint committee will not have the power to refer an issue to the Secretary of State for Health.
- 7.5 In establishing a joint committee for the purposes of discretionary joint scrutiny activity, the constituent local authorities should determine the committee's role and remit. This should include consideration as to whether the committee operates as a standing arrangement for the purposes of considering all of the planning, provision and operation of health services within a particular area or whether it is being established for the purposes of considering the operation of one particular health service with a view to making recommendations for its improvement. In the case of the latter, the committee must disband once its specific scrutiny activity is complete.
- 7.6 In administering any such committee, the proposed approach identified in sections 6.3 – 6.9 (disregarding any power to refer to the Secretary of State) of this protocol should be followed, as appropriate.

8. CONCLUSION

- 8.1 The local authorities of Cheshire and Merseyside have adopted this protocol as a means of governing the operation of joint health scrutiny arrangements both mandatory and discretionary. The protocol is intended to support effective consultation with NHS bodies or local health service providers on any proposal for a substantial development of or variation in health services. The protocol also supports the establishment of a joint health overview and scrutiny committee where discretionary health scrutiny activity is deemed appropriate.
- 8.2 The protocol will be reviewed regularly, and at least on an annual basis to ensure that it complies with all current legislation and any guidance published by the Department of Health.

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