

<b>Subject:</b>	<b>Establishment of a Joint Health Overview &amp; Scrutiny Committee (JHOSC)</b>		
<b>Date of Meeting:</b>	<b>17 October 2018</b>		
<b>Report of:</b>	<b>Executive Lead Strategy, Governance &amp; Law</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

## **Glossary**

**JHOSC: Joint Health Overview & Scrutiny Committee**

**CEC: Clinically Effective Commissioning**

**SViS: Substantial Variation in Service**

**IRP: Independent Reconfiguration Panel**

**STP: (Sussex & East Surrey) Sustainability & Transformation Partnership**

## **FOR GENERAL RELEASE**

### **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report outlines the function of JHOSCs; explains that we have been asked to establish a JHOSC to scrutinise elements of NHS planning; and presents draft JHOSC Terms of Reference (**Appendices 1, 2 and 3**).
- 1.2 The HOSC is asked to approve plans to establish a JHOSC and to make recommendations to Full Council which has ultimate responsibility for the exercise of HOSC statutory powers.
- 1.3 The HOSC is also asked to nominate a member from each main political group to the JHOSC.

### **2. RECOMMENDATIONS:**

- 2.1 That members approve the establishment of a JHOSC and the JHOSC Terms of Reference and Ways of Working; and
- 2.2 That the HOSC recommends to Full Council that it agrees the establishment of a JHOSC, Terms of Reference and Ways of Working; and
- 2.3 That the HOSC recommends to Full Council that it grants delegated authority to the Chief Executive/Monitoring Officer to amend and re-publish the Constitution to include reference to the JHOSC; and

- 2.4 That the HOSC agrees to appoint a member from each main political group to the JHOSC.

### 3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Health & Social Care Act (2001) and its regulations instituted HOSCs, granting them statutory powers to scrutinise significant NHS plans for service change (Substantial Variation in Service: SViS). For Brighton & Hove City Council, these powers are formally held by Full Council rather than by the HOSC.
- 3.2 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.
- 3.3 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.
- 3.4 **Clinically Effective Commissioning (CEC).** 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. 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 substantial change for Brighton & Hove will also constitute a substantial change for East and for West Sussex. In consequence, any substantial CEC change will potentially require scrutiny by a JHOSC.
- 3.5 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 LA boundaries, they will therefore need to be formally considered by a JHOSC.
- 3.6 We do not currently have any 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.

- 3.7 **JHOSC and the STP.** 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 we will see 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).
- 3.8 **JHOSC Terms of Reference (ToR).** A draft JHOSC ToR is attached as **Appendix 1** to this report. This has been approved by the Chairs of all the relevant HOSCs and will need to be agreed by each of the committees. Brighton & Hove HOSC members are of course free to amend this ToR, but any changes agreed by HOSC would need to be unanimously approved by all the committees involved (hence in part the need to begin preparations at an early point).
- 3.9 It is proposed that each HOSC appoints three Councillors to the JHOSC, enabling all the main BHCC political groups to be represented. There was discussion amongst the HOSC Chairs as to whether it would be feasible to include co-opted members from each HOSC on the JHOSC. However, it was felt that this risked the JHOSC becoming unwieldy. In addition, since each of the HOSCs takes a different approach to co-option, there are significant practical difficulties involved in including co-optees in a joint body.
- 3.10 It seems likely that the JHOSC will run for a considerable period of time. Since there are local elections in Brighton & Hove in May 2019, this presents a potential problem in terms of continuity of membership, as membership of the HOSC is likely to change considerably post May, not least because a number of current HOSC members are not standing for election. There is no obvious solution to this, other than for Brighton & Hove HOSC to nominate members to sit until May 2019 and then for the post May HOSC to nominate new members. Brighton & Hove members appointed to the JHOSC will therefore be appointed only until May 2019 (in practical terms until pre-election purdah begins in late March).
- 3.11 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 the CEC JHOSC believe that a referral is required, it would make a recommendation, backed by evidence, to its constituent local authorities. Each local authority would then individually decide whether to refer.

#### 4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 HOSCs are required to establish a JHOSC to consider cross-boundary SViS, so there is no alternative to a JHOSC.
- 4.2 The HOSC could choose to enter into a JHOSC solely to consider CEC and to subsequently seek to establish separate JHOSCs to consider other cross-boundary SViS. This is not recommended as it would involve a considerable degree of duplication with no clear benefit arising.
- 4.3 A draft JHOSC ToR, agreed by HOSC Chairs, is included for approval. Members can amend this ToR, although any changes proposed will ultimately need to be approved by all the JHOSC constituent members.
- 4.4 It is proposed that the statutory power to refer SViS plans to the Secretary of State for Health is retained by individual local authorities. The alternative is to delegate this power to the JHOSC. Although this would be administratively simpler, it could potentially limit the Council's ability to challenge SViS (e.g. plans that might benefit the JHOSC area as a whole, but would be detrimental to city residents) and is therefore not recommended.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 None directly. Plans to establish a JHOSC have been agreed by the Chairs of the HOSCs concerned.

## **6. CONCLUSION**

- 6.1 Brighton & Hove HOSC is asked to agree to recommend to Full Council the establishment of a JHOSC to scrutinise cross-boundary SViS across the STP area. The JHOSC's initial action will be to form a sub-group (of Brighton & Hove, East Sussex and West Sussex) to examine CEC plans.
- 6.2 The HOSC is also asked to nominate a member from each political group to sit on the JHOSC until May 2019. There will be a further nomination process following the May 2019 local elections.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

There are none

### Legal Implications

- 7.1 While the Health Overview & Scrutiny Committee has a key role in reviewing these proposals and considering whether to recommend their approval, Full Council is required to make the decision on behalf of BHCC to establish a Joint Health & Overview Scrutiny Committee and to approve its terms of reference.

The legal implications of these proposals, including the statutory framework which gives rise to them, are contained in the body of this Report.

Equalities Implications:

- 7.1 Equalities implications have not been considered at this stage, but will form an explicit part of the JHOSC's substantive work (e.g. scrutinising the equality impact work done by NHS bodies as part of their CEC planning).

Sustainability Implications:

- 7.2 Sustainability implications have not been considered at this stage, but may form part of the JHOSC's substantive work where relevant (e.g. if change plans are likely to have a significant impact on patient travel).

Any Other Significant Implications:

- 7.3 The JHOSC will consider public health implications of any NHS change plans as part of its substantive work.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. JHOSC Essential Points
2. JHOSC draft Terms of Reference
3. JHOSC draft Ways of Working

**Documents in Members' Rooms**

None

**Background Documents**

None

