

## Better Health Programme Joint Health Scrutiny Committee



### Better Health Programme Joint Health Scrutiny Committee

10 July 2017

### Proposed re-designation of the Better Health Programme Joint Health Scrutiny Committee

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### Report of Principal Overview and Scrutiny Officer, Durham County Council

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#### Purpose of the Report

- 1 This report invites members to agree to the re-designation of the Better Health Programme Joint Health Scrutiny Committee previously established under the provisions of the Health and Social Care Act 2012 to incorporate joint local authority scrutiny of the Durham, Darlington and Teesside Hambleton Richmondshire and Whitby Sustainability and Transformation Plan and any associated service review proposals.

#### Background

- 2 During 2016 the establishment of the Better Health Programme Joint Health Scrutiny Committee was agreed consisting of representatives each from Darlington Borough Council, Durham County Council, North Yorkshire County Council, Hartlepool Borough Council, Middlesbrough Borough Council, Redcar and Cleveland Borough Council and Stockton-upon-Tees Borough Council.
- 3 To date, the Better Health Programme Joint Health Scrutiny Committee has met on 7 occasions to consider proposals being developed under the programme.

#### Sustainability and Transformation Plans

- 4 In December 2015, the NHS shared planning guidance 2016/17 – 2020/21. outlined a new approach to help ensure that health and care services were built around the needs of local populations. To do this, every health and care

system in England, involving local organisations such as NHS providers, commissioners, and local authorities, were asked to produce a multi-year Sustainability and Transformation Plan (STP), showing how local services would evolve and become sustainable over the next five years – ultimately delivering the NHS Five Year Forward View vision of better health, better patient care and improved NHS efficiency

- 5 The North East is covered by two separate STPs. The Northumberland, Tyne and Wear and North Durham STP and the Durham, Darlington, Teesside, Hambleton, Richmondshire and Whitby STP.
- 6 The Durham, Darlington, Teesside, Hambleton, Richmondshire and Whitby STP covers the footprint of the Better Health Programme.
- 7 NHS system leaders met to discuss how best to create these plans, reflecting on the work that has already been developed in a number of areas across the North East and Cumbria and the STP draft documents were submitted to NHS England in October 2016.
- 8 The two draft STPs were published in November 2016.

#### **Implications for the Better Health Programme of STP Development**

- 9 During consideration of the Better Health Programme development and associated proposals by the Better Health Programme Joint Health Scrutiny Committee, a number of presentations have been given in respect of the emerging Durham Darlington Teesside, Hambleton Richmondshire and Whitby Sustainability and Transformation Plan.
- 10 The Joint Committee have been advised that the work undertaken as part of the Better Health programme features within the STP as part of the “Quality of Care in our hospitals” theme as well as the “Health and care in communities and neighbourhoods” and that there will be a statutory requirement for consultation in respect of the draft STP.
- 11 Accordingly, the Better Health Programme Joint Health Scrutiny Committee is invited to consider the potential for the Committee’s remit to be broadened to include the draft STP documents and any associated proposals for significant developments or service variations arising therefrom.

#### **Redesignation of the former Better Health Programme Joint Health Scrutiny Committee**

- 12 In view of the integration of the Better Health Programme the Durham Darlington Teesside, Hambleton Richmondshire and Whitby STP, it is proposed that the Better Health Programme Joint Health OSC be re-designated the Durham, Darlington and Teesside Hambleton Richmondshire and Whitby Sustainability and Transformation Plan Joint Scrutiny Committee.
- 13 In accordance with the regulations detailed within this report, the new Joint Committee will be the vehicle through which the respective Local Authorities will respond to the consultation.
- 14 Accordingly, it is for individual member Council’s designated Health Overview and Scrutiny Committee to provide information and representations in respect

of any consultations as it impacts upon their residents to the Joint Health OSC via its nominated representatives.

- 15 The protocol and terms of reference for the revised Joint Health Scrutiny Committee have been drafted by health scrutiny officers across the respective local authorities setting out the updated role and function of the joint Committee as well as the proposed representation required from each Council. These are attached to this report (Appendix 2).
- 16 It is proposed that the Councils' representatives appointed to the Better Health Programme Joint Health OSC would assume the positions on the re-designated Durham, Darlington and Teesside Hambleton Richmondshire and Whitby Sustainability and Transformation Plan Joint Health Scrutiny Committee.

### **Provisions for consultation and engagement of Overview and Scrutiny Committees**

- 17 The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013 require the formation of a joint scrutiny arrangement, where an NHS body or relevant health service provider consults more than one local authority on proposals to make substantial variations or developments to services. They provide that all the local authorities whose residents receive such services must participate in the joint scrutiny arrangement for the purpose of responding to the consultation, using the method most appropriate to the areas and issues being considered.
- 18 A local authority can opt-out if, having considered the information provided by the NHS body or relevant health service provider proposing the service change, they determine that the proposal is not "substantial" for their residents. Where a local authority opts out in this way, they will relinquish the power to refer the proposed change to the Secretary of State for the purposes of that particular consultation.
- 19 Only the joint scrutiny committee may require the organisation proposing the change to provide information to them, or attend before them to answer questions. That organisation is under a duty to comply with these requirements. If a local authority has opted out of the joint arrangement, they may not request information or attendance from the NHS body or relevant health service provider proposing the change. Failure by an NHS body or relevant health service provider to provide information requested by a local authority who is not participating in the joint scrutiny process and who is therefore not entitled that that information does not constitute a failure to consult that authority and is therefore not a valid reason for a referral to be made to Secretary of State.
- 20 They may not participate further in the joint scrutiny arrangements, unless changes occur during the development of proposals that make the impact substantial for residents in the local authority's area. The local authority, in these cases, should not expect to revisit any matters that the joint committee has already considered.

- 21 In scrutinising the proposals, the joint committee should aim to consider the proposal from the perspectives of all those affected or potentially affected by that proposal. The provisions of co-option set out above apply, enabling the involvement of district councils in the scrutiny process.
- 22 Only the joint scrutiny arrangement can then make a report and recommendations back to the organisation proposing the change. The power to refer to Secretary of State should only be exercised once the NHS body or relevant health service provider proposing the service change has responded to the comments of the joint scrutiny committee and all forms of local resolution have been exhausted. However, it can be exercised by any of local authorities originally consulted or by the joint arrangement where the power to refer has been delegated to it.

### **Recommendations and reasons**

- 23 The Better Health Programme Joint Overview and Scrutiny Committee is recommended to:-
- (a) Receive and comment upon the information detailed within the report;
  - (b) Agree to the re-designation of the Better Health Programme Joint Health OSC to the Durham, Darlington and Teesside, Hambleton Richmondshire and Whitby Joint Health Overview and Scrutiny Committee under the terms of the Health and Social Care Act 2012 as set out in this report;
  - (c) Agree the proposed protocol, Terms of Reference and membership of the re-designated Joint Health Scrutiny Committee.

### **Background papers**

None

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**Appendix 1: Implications**

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**Finance - None**

**Staffing - None**

**Risk - None**

**Equality and Diversity / Public Sector Equality Duty - None**

**Accommodation - None**

**Crime and Disorder - None**

**Human Rights - None**

**Consultation – None**

**Procurement - None**

**Disability Issues - None**

**Legal Implications – None**



## Protocol for a Joint Health Scrutiny Committee

### Durham Darlington Teesside Hambleton Richmondshire and Whitby STP

1. This protocol provides a framework under the Local Authority (Public Health, Health and Wellbeing Boards and Public Health) Regulations 2013 for considering and providing a formal consultation response in relation to the Durham Darlington and Teesside Hambleton Richmondshire and Whitby Sustainability and Transformation Plan and any associated proposals for substantial development and variation to health services contained therein or resulting therefrom. The proposals affect the Durham Dales, Easington and Sedgefield CCG area of County Durham, the Tees Valley region and the Hambleton, Richmondshire and Whitby CCG area of North Yorkshire. They are being proposed by the following:
  - Darlington Clinical Commissioning Group (CCG);
  - Durham Dales, Easington and Sedgefield CCG;
  - Hartlepool and Stockton-on-Tees CCG;
  - South Tees CCG;
  - Hambleton, Richmondshire and Whitby CCG
  
2. The terms of reference of the Joint Health Scrutiny Committee is set out at **Appendix A**.
  
3. A Joint Health Scrutiny Committee ("the Joint Committee") comprising Darlington BC; Durham County Council, Hartlepool BC, Middlesbrough BC, North Yorkshire County Council, Redcar and Cleveland BC; and Stockton-on-Tees BC ("the constituent authorities") has been established in accordance with the Regulations for the purposes of formal consultation by the relevant NHS Bodies in relation to the matters referred to at paragraphs 1. In particular in order to be able to:-
  - (a) respond to the consultation
  - (b) require the relevant NHS Bodies to provide information about the proposals;
  - (c) require members/employees of the relevant NHS Bodies to attend before it to answer questions in connection with the consultation.
  
4. The Joint Committee formed for the purpose of the consultation outlined at paragraph 1 will, following approval of this protocol and terms of reference at its first meeting, circulate copies of the same to:-

#### Local Authorities

Darlington Borough Council (BC); Durham County Council, Hartlepool BC, Middlesbrough BC, North Yorkshire County Council, Redcar and Cleveland BC and Stockton-on-Tees BC;

#### Clinical Commissioning Groups

Darlington; Durham Dales, Easington and Sedgefield; Hartlepool and Stockton-on-Tees; South Tees and Hambleton, Richmondshire and Whitby.

## **NHS Foundation Trusts**

County Durham and Darlington NHS Foundation Trust  
North Tees and Hartlepool NHS Foundation Trust  
South Tees Hospitals NHS Foundation Trust  
Tees, Esk and Wear Valleys NHS Foundation Trust  
North East Ambulance Foundation Trust

### **Membership**

5. The Joint Committee will consist of equal representation, with three representatives to be appointed by each of the constituent authorities.
6. The term of office for representatives will be for the period from the date of their appointment by their constituent authorities until their relevant authority's next annual council meeting. If a representative ceases to be a Councillor, or wishes to resign from the Joint Committee, the relevant council shall inform the joint committee secretariat and the replacement representative shall serve for the remainder of the original representative's term of office.
7. To ensure that the operation of the Joint Committee is consistent with the Constitutions of all the constituent authorities, those authorities operating a substitution system shall be entitled to nominate substitutes.
8. The Joint Committee may ask individuals to assist it (in a non-voting capacity) and may ask independent professionals to advise it for the purposes of the consultation process.
9. The quorum for meetings of the Joint Committee shall be a minimum of one member representative from each of the constituent authorities.

### **Chair and Vice-Chair**

10. The Chair of the Joint Committee will be a Member representative from [XXXX] and the Vice-Chair will be a Member representative from [XXXX]. The Chair will not have a second or casting vote.
11. If the agreed Chair and Vice-Chair are absent from a meeting, the Joint Committee shall appoint a member to chair that meeting from the representatives present who are members of the same constituent Council as the Chair.

### **Terms of Reference**

12. The Joint Committee will be the formal consultee under the Regulations and the Directions for the purposes of the consultation by the relevant NHS Bodies concerning those matters outlined at paragraphs 1. Terms of reference are set out at Appendix 1.

### **Administration**

13. Meetings shall be held at the times, dates and places determined by the Chair in consultation with each of the constituent authorities.



14. Agendas for meetings shall be determined by the secretariat in consultation with the Chair.
15. Notice of meetings of the Joint Committee will be sent to each member of the Joint Committee at least 5 clear working days before the date of the meeting and also to the Chair of the constituent authorities' relevant overview and scrutiny committees (for information). Notices of meetings will include the agenda and papers for meetings. Papers "to follow" should be avoided where possible.
16. Minutes of meetings will be supplied to each member of the Joint Committee and to the Chairs of the constituent authorities' relevant overview and scrutiny committees (for information) and shall be confirmed at the next meeting of the Joint Committee.

### **Final Report and Consultation Response**

17. The relevant NHS body are required to notify the Joint Committee of the date by which its consultation response is required, and the date by which it intends to make a decision. The Guidance highlights that it is sensible for the Joint Committee to be able to consider the outcome of public consultation before it makes its consultation response.
17. The Joint Committee is independent of its constituent councils, executives and political groups and this independence should not be compromised by any member, officer or relevant NHS bodies. The Joint Committee will send copies of its final report and formal consultation response to the relevant NHS Bodies and the constituent authorities.
18. The primary objectives of the Joint Committee will be to reach consensus, but where there are any aspects of the consultation as regards which there is no consensus, the Joint Committee's final report and formal consultation response will include, in full, the views of all of the constituent authorities, with the specific reasons for those views, regarding those areas where there is no consensus, as well as the constituent authorities' views in relation to those matters where there is a consensus.

### **Following the Consultation**

19. Any next steps following the initial consultation response will be taken with due reference to the 'Local Authority Health Scrutiny: Guidance to support Local Authorities and their partners to deliver effective health scrutiny' (Department of Health; June 2014).

### **Principles for joint health scrutiny**

20. In scrutinising the proposals, the joint committee will aim to consider the proposal from the perspectives of all those affected or potentially affected by that proposal.
21. The constituent authorities and the relevant NHS Bodies will be willing to share knowledge, respond to requests for information and carry out their duties in an atmosphere of courtesy and respect in accordance with their codes of conduct.

Personal and prejudicial and/or disclosable pecuniary interests will be declared in all cases in accordance with the code of conduct and Localism Act 2011.

22. The Joint Committee's procedures will be open and transparent in accordance with the Local Government Act 1972 and the Access to Information Act 1985 and meetings will be held in public. Only information that is expressly defined in regulations to be confidential or exempt from publication will be able to be considered in private. Papers of the Joint Committee may be posted on the websites of the constituent authorities as determined by them.
23. Communication with the media in connection with the Joint Committee's views will be handled in conjunction with each of the constituent local authorities' press officers.

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**Joint Health Scrutiny Committee**

**Durham Darlington Teesside Hambleton Richmondshire and Whitby STP**

**Terms of Reference**

1. To consider the draft Durham Darlington Teesside Hambleton Richmondshire and Whitby STP (hereafter called STP)
2. To consider proposals for substantial development and variation to health services as contained in and/ or developed from the STP and as proposed by the following:
  - a) Darlington Clinical Commissioning Group (CCG);
  - b) Durham Dales, Easington and Sedgefield CCG;
  - c) Hartlepool and Stockton-on-Tees CCG;
  - d) South Tees CCG;
  - e) Hambleton Richmondshire and Whitby CCG.
3. To consider the following in advance of the formal public consultation:
  - The aims and objectives of the STP, the constituent workstreams therein including those proposals formerly developed as part of the Better Health Programme;
  - The plans and proposals for public and stakeholder consultation and engagement;
  - Any options for service change identified as part of the STP including those considerations made as part of any associated options appraisal process.
4. To consider the STP's substantive proposals during the period of formal public consultation, and produce a formal consultation response, in accordance with the protocol for the Joint Health Scrutiny Committee and the consultation timetable established by the relevant NHS Bodies.
5. In order to be able to formulate and provide views to the relevant NHS bodies on the matters outlined above, the Joint Committee may:-
  - a) require the relevant NHS Bodies to provide information about the proposals the subject of the consultation with the constituent local authorities and the Joint Committee; and
  - b) require an officer of the relevant NHS Bodies to attend meetings of the Joint Committee, in order to answer such questions as appear to them to be necessary for the discharge of their functions in connection with the consultation.
6. To ensure the formal consultation response of the Joint Committee includes, in full, the views of all of the constituent authorities, with the specific reasons for those views, regarding those areas where there is no consensus, as well as the constituent authorities' views in relation to those matters where there is a consensus.
7. To oversee the implementation of any proposed service changes agreed as part of the STP/Better Health Programme process.
8. The Joint Committee does not have the power of referral to the Secretary of State.

