

North Tyneside Council Report to Council Date: 28 September 2017

ITEM 7

Title: Northumberland, Tyne & Wear and North Durham Sustainability and Transformation Plan Joint Health Scrutiny Committee

Portfolio(s): Elected Mayor

Adult Social Care, Public Health and Health & Wellbeing

Cabinet Member(s):

Mrs Norma Redfearn
Councillor Margaret Hall

Report from Service Area:

Law and Governance

Responsible Officer:

Vivienne Geary, Head of Law and Governance

Tel: (0191) 6435339

Wards affected:

All

PART 1

1.1 Executive Summary:

This report invites the Council to consider the establishment of a Joint Committee under the provisions of the Health and Social Care Act 2012, involving all authorities affected by the Northumberland, Tyne and Wear and North Durham Sustainability and Transformation Plan, and any associated service review proposals, and to appoint three representatives, together with named substitutes, onto the Joint Committee.

1.2 Recommendation(s):

The Council is requested to:

- (1) Endorse the establishment of a Joint Health Scrutiny Committee, as set out in this report;
- (2) Endorse the proposed draft protocol and terms of reference of the proposed Joint Health Scrutiny Committee, as set out at Appendix A;
- (3) Authorise the Head of Law and Governance, in consultation with the Head of Finance, Chief Executive and Elected Mayor, to propose any revisions to the

final protocol, terms of reference and associated matters for consideration by the Joint Committee; and

- (4) Appoint three representatives to the Joint Committee and three named substitutes.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 29 August 2017.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the Our North Tyneside Plan:

Our people will:

- Be listened to and involved by responsive, enabling services.

1.5 Information:

Background

- 1.5.1 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.
- 1.5.2 The North East region is covered by two separate STPs. One covers Northumberland, Tyne and Wear and North Durham and a southern STP covering Durham, Darlington, Teesside, Hambleton, Richmondshire and Whitby. The two draft STPs were published in November 2016.
- 1.5.3 The implications of the STP on North Tyneside was the subject of debate at the Council meeting held on 19 January 2017 following the submission of a Motion, and also at the Council meeting held on 23 March 2017, when a report was submitted on the outcome of a review of the current plans for the NHS in North Tyneside and in particular understanding the impact of the STP for North Tyneside. The need to explore with neighbouring local authorities the ramifications of the STP across the whole of Northumberland, Tyne and Wear and North Durham was raised as part of that debate.
- 1.5.4 At its meeting held on 7 September 2017, the Authority's Adult Social Care, Health and Wellbeing Sub Committee supported the establishment of a Joint Health Scrutiny Committee, and the proposed draft protocol and terms of reference of the

proposed Joint Health Scrutiny Committee, as set out at Appendix A; and to submit the proposal to Council to approve the establishment of the Joint Health Scrutiny Committee, and also to appoint three representatives to the Joint Committee and three named substitutes.

Legislative Requirements

- 1.5.5 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.
- 1.5.6 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.
- 1.5.7 Only the Joint 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 to provide information requested by a local authority 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.
- 1.5.8 A local authority that has opted out 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.
- 1.5.9 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.
- 1.5.10 Only the Joint Committee can make a report and recommendations back to the organisation proposing the change.
- 1.5.11 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 Committee and all forms of local resolution have been exhausted. However, this power can only be exercised by the constituent local authorities originally consulted. In North Tyneside, this power

of referral is held by the Adult Social Care, Health and Wellbeing Sub-committee and cannot be delegated.

Establishment of a Northumberland, Tyne and Wear and North Durham STP Joint Health Scrutiny Committee

- 1.5.12 The local authorities affected by the Northumberland, Tyne and Wear and North Durham STP have agreed in principle to establish a Joint Committee to oversee the development of the STP and any associated proposals for substantial development and variation to health services contained therein or resulting therefrom.
- 1.5.13 In accordance with the regulations, detailed above in paragraph 1.5.4, the new Joint Committee will be the vehicle through which the respective Local Authorities will respond jointly to any consultation in relation to proposals for substantial developments and variations to health services.
- 1.5.14 The protocol and terms of reference for the proposed Joint Committee have been drafted by democratic services / scrutiny officers across the respective local authorities setting out the role and function of the Joint Committee as well as the proposed representation required from each Council. The draft protocol and terms of reference are attached at Appendix A.
- 1.5.15 In relation to point 10 of the protocol, attached at Appendix A, nominations for a Chair and Vice-Chair of the Joint Committee will be invited and the appointment to those positions will be made by members of the Joint Committee at the first meeting.
- 1.5.16 On-going secretariat support for the Joint Committee will be provided by an officer from the same local authority as the Chair.
- 1.5.17 Point 12 of the protocol, attached at Appendix A, relates to consideration of substantial developments and variations to health services which does not affect all member local authorities of the Joint Committee, for example it may only affect two or three authorities. In this instance, after consideration of the information from the relevant health service provider, it will be up to each individual authority to decide the impact the substantial variation will have on its residents and whether to be part of the consultation. Only local authorities who feel they are affected will be required to meet and a Chair from one of the affected local authorities will be appointed.
- 1.5.18 It is proposed that the Council appoint three representatives to the Joint Committee and three named substitutes. Under the Local Government Act 2000 provisions, Overview and Scrutiny Committees must generally reflect the make up of full Council. Consequently when establishing a Joint Health Scrutiny Committee, each participating local authority should ensure that those councillors it nominates reflects its own political balance, unless all the participating local authorities agree to waive that requirement. Accordingly the appointment of three Labour Group Members to the Joint Committee would reflect North Tyneside Council's current political balance.

1.5.19 The first meeting of the Joint Committee is expected to take place mid to late October 2017. As well as appointing the Chair and reviewing the protocol and terms of reference at this meeting, it would also look at the outcome/feedback from the engagement exercise carried out in relation to the high level STP and the proposed next steps for formal consultation. Following this it is anticipated that the Joint Committee will meet as and when necessary, as the STP progresses.

The role of North Tyneside Adult Social Care, Health and Wellbeing Scrutiny Sub Committee

1.5.20 North Tyneside's Adult Social Care, Health and Wellbeing Scrutiny Sub Committee can still discuss service changes and STP related matters, in respect of the impact on residents in North Tyneside. Its views can then be fed into the joint scrutiny committee via the Authority's appointed representatives.

1.5.21 North Tyneside's Adult Social Care, Health and Wellbeing Scrutiny Sub Committee will also remain the sole required consultee on proposed changes that only impact on residents in North Tyneside.

1.6 Decision options:

The following decision options are available for consideration by the Council:

Option 1

Council agree the recommendations set out in paragraph 1.2 above

Option 2

Council do not agree to the recommendations set out in paragraph 1.2 above

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

To meet the statutory requirement to form a joint committee 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.

1.8 Appendices:

Appendix A – Northumberland, Tyne & Wear and North Durham STP Joint Health Scrutiny Committee – Draft Protocol and Terms of Reference

1.9 Contact officers:

Dave Brown, Senior Democratic and Electoral Services Manager (Tel. 643 5358)
Sharon Ranadé, Democratic Services Officer (Tel. 643 5614)
Alison Campbell, Finance and Resources (Tel. 643 7038)

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- Health and Social Care Act 2012
- The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013
- NHS shared planning guidance 2016/17 – 2020/21
- Sustainable Transformation Plan for Northumberland, Tyne and Wear and North Durham
- Report to and Minutes of the Adult Social Care, Health and Wellbeing Sub Committee meeting held on 7 September 2017,

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

If a member of the Authority was to be appointed as Chair of the Joint Committee, any resourcing for this and the provision of the secretariat support for the Joint Committee would need to be met within the Authority's existing resources.

2.2 Legal

This report has been produced in response to the Authority's statutory responsibilities to engage in health scrutiny consultations as detailed in the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013 and associated Department of Health guidance. Where an NHS body is required to consult more than one local authority on proposals for substantial changes to NHS services, the local authorities must establish a joint committee. The proposed joint committee would provide a single arrangement for considering an anticipated series of related proposals resulting from the STP.

2.3 Consultation/community engagement

This report details the Authority's statutory responsibilities in respect of any proposed consultation and engagement activity in respect of the Northumberland, Tyne and Wear and North Durham Sustainability and Transformation Joint Health Scrutiny Committee.

2.4 Human rights

There are no human rights issues directly arising from this report.

2.5 Equalities and diversity

The proposal covered by this report affects the process for scrutiny of NHS plans and does not in itself involve any substantial decision about changes to services.

2.6 Risk management

There are no risk management issues directly arising from this report.

2.7 Crime and disorder

There are no crime and disorder issues directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability issues directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X