

EXECUTIVE BOARD DECISION



REPORT OF:	Leader
LEAD OFFICERS:	Chief Executive
DATE:	Thursday, 12 March 2020

PORTFOLIO(S) AFFECTED:

WARD/S AFFECTED:	(All Wards);
KEY DECISION:	N

SUBJECT:

Establishment of a Joint Health Overview and Scrutiny Committee - Blackburn with Darwen Lancashire, Blackpool and South Cumbria.

1. EXECUTIVE SUMMARY

To inform the Executive Board of the requirement to establish a Joint Health Overview and Scrutiny Committee of the upper tier local authorities; Blackburn with Darwen Borough Council, Lancashire County Council, Cumbria County Council and Blackpool Borough Council as required under the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) to consider and respond to consultations relating to “substantial reconfiguration” proposals for health services affecting more than one of the local authority areas.

2. RECOMMENDATIONS

That the Executive Board:

1. Notes the report and the requirement to appoint a mandatory joint committee for responding to consultations relating to “substantial reconfiguration” proposals for health services affecting more than one local authority area.
2. Recommends to Council to:
 - i) agree to the establishment of the joint committee and nominate [3] members of the Council to it, as referred to in the report;
 - ii) not to delegate to the joint committee and retain the power to allow the Council to make its own referrals to the Secretary of State, and request that the Terms of Reference be amended accordingly.

3. BACKGROUND

Members will be aware of the work of the Lancashire and South Cumbria Integrated Care System which is working on the reconfigurations of health provision in the region. These reconfigurations would aim to improve health outcomes for residents in the area and will lead to changes in the way that services are delivered both in hospitals and in the community.

The establishment of the Joint Committee is a requirement of the Act where a relevant Health Authority consults more than one local authority’s health scrutiny function about substantial reconfiguration proposals. Regulation 30 sets out the following requirements:-

- Only the Joint Committee may respond to the consultation (rather than each individual local authority responding separately)

- Only the Joint Committee may exercise the power to require the provision of information by the relevant NHS body or Health Service Provider about the proposals.
- Only joint committee's may exercise the power to require members or employees of the relevant NHS body or Health Service Provider to attend before the committee to answer questions in connection with the consultation.

The Draft terms of reference for the proposed Joint Health Scrutiny Committee have been drawn up for consideration and are attached at appendix 1. These are being presented to each of the constituent bodies who will make up the Joint Committee. The key points to note are:

- There will be three members from each of the 4 upper tier local authorities' relevant overview and scrutiny committee will be appointed to form the joint committee. For Blackburn with Darwen Borough Council (BwD), three members of the People Overview and Scrutiny Committee would be appointed to the joint committee. Substitutes may be nominated to attend when their primary representatives are unable to and will have the same voting rights.
- The Chair and Vice Chair will be elected by the joint committee from among its voting membership each year and rotate annually. The elected Chair and Vice Chair are to be from different local authorities.
- The Chair and Vice Chair will agree to arrange meetings of the Joint Committee as and when necessary or for the purposes of responding to consultations relating to "substantial reconfiguration" proposals for health services. The Joint committee meetings will be held in public but there will be no public speaking rights. No meetings will be held during election periods for any elections.
- Quorum – 5 voting members from at least three of the affected upper tier local authorities being present.
- Although the current draft ToRs provide for delegated authority to refer contested NHS proposals to the Secretary of State, BwD will seek amendment to this provision and retain the power to make such referrals independently.
- Task and finish groups may be established by the Joint Committee.

4. KEY ISSUES & RISKS

Joint Health Overview and Scrutiny Committees must be appointed by local authorities where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about "substantial reconfiguration" proposals. The joint committee would have specific powers, but the power to refer to the Secretary of State would need to be delegated by the individual local authorities.

5. POLICY IMPLICATIONS

The Council would need to respond to consultations on "substantial reconfiguration" proposals in relation to health services, after considering the impact on the wider council services and the residents of Blackburn with Darwen. For any contested proposals, the Council must be able to directly make referrals to the Secretary of State.

6. FINANCIAL IMPLICATIONS

None

7. LEGAL IMPLICATIONS

The National Health Service Act 2006 (amended by the Health and Social Care Act 2012) confers health scrutiny functions on the local authority. The full Council of the Local Authority determines

the arrangement for health scrutiny to be adopted. The Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny) Regulations 2013 enable health scrutiny functions to be delegated to a joint health overview and scrutiny committee.

Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 requires local authorities to appoint “mandatory” joint committees where a relevant NHS body or health service provider consults more than one local authority’s health scrutiny function about “substantial reconfiguration” proposals. In such circumstances, Regulation 30 sets out the following requirements:

- Only the joint committee may respond to the consultation (i.e. rather than each individual local authority responding separately)
- Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal;
- Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service.

There is also a provision for a Local Authority to refer proposals for substantial development or variations to health services to the Secretary of State in certain specified circumstances. Where a Local Authority is participating in a joint committee the power to refer to the Secretary of State can be delegated to the joint committee or retained by the Council. This report does not seek approval to delegate the power of referral to the Secretary of State to the joint committee and would therefore be retained by the Council for all matters. Note, the Regulations state that if a local authority has delegated this power, then it may not subsequently exercise the power of referral

8. RESOURCE IMPLICATIONS

There will be support required from the Governance team.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision.

10. CONSULTATIONS

Consultations are taking place with each of the relevant constituent authorities within the area covered by the Integrated Care System footprint.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council’s Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

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DATE:	26 th February 2020
BACKGROUND PAPER:	Draft Terms of Reference for the Joint Health OSC