

Wards Affected:

All Wards

ITEM 6**MILTON KEYNES COUNCIL****18 OCTOBER 2017****JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE PROPOSAL**

Responsible Cabinet Member: Councillor Peter Marland, Leader of the Cabinet

Report Sponsor: Carole Mills, Chief Executive

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Councils must form a Joint Health Overview Scrutiny Committee (JHOSC) where a proposal amounts to a substantial development or variation of the provision of health services which affects more than one Council area and on which they will be consulted. This will happen with the NHS Sustainable and Transformation Partnership (STP) formerly known as the NHS Sustainable and Transformation Plan. Milton Keynes Council is therefore obliged to respond to the consultation via a JHOSC rather than as an individual Council.

This report provides background information on the proposed establishment of a JHOSC comprising Milton Keynes, Bedford, Luton and Central Bedfordshire Councils. It outlines the reasons for the establishment of a JHOSC, and recommends that Milton Keynes participates in the JHOSC and Council approves the JHOSC Terms of Reference (TOR).

1. Recommendation(s)**1.1 That Council:**

- a) Approve the establishment of a Joint Health Overview and Scrutiny Committee (discretionary JHOSC with statutory scrutiny powers) to scrutinise the Sustainable and Transformation Partnership (STP) for Bedford, Bedfordshire, Luton and Milton Keynes.
- b) Approve the model JHOSC *Terms of Reference* set out in the attached Annex.
- c) Delegate authority to the Chief Executive to approve any variations to the *Terms of Reference* following further discussion with the other constituent authorities, subject to consultation with the Group Leaders in respect of any proposed significant variations.
- d) To waive the requirement for the Joint Committee to be politically proportionate across the constituent authorities.
- e) Subject to recommendations (a) to (d) above, to nominate three non-executive Councillors (and substitutes) to serve on the JHOSC.

2. **Issues**

- 2.1 NHS England (NHSE) has established 44 Sustainability and Transformation Partnership (STP) areas – or footprints – each of which brings together all the Clinical Commissioning Groups (CCGs) in their area and populations of between 1 and 2 million people. In footprint areas local NHS commissioners, providers and local authorities are working together to develop a STP in relation to health and care services within the footprint area. These groups incorporate all health and care systems in their area.
- 2.2 Each area's STP is required to set out how the local system will improve health and wellbeing for its population, improve service quality and deliver financial sustainability. STPs are intended to help ensure that services are joined up and planned by place rather than around institutions. The plans must show how services will evolve and deliver the NHS's *Five Year Forward View*, published in October 2014 by NHSE, which sets out a vision for the future based on seven new models of care: multi-speciality community providers, primary and acute care systems; urgent and emergency care networks; acute care collaborations; specialised care; modern maternity services and enhanced health in care homes.
- 2.3 Milton Keynes is part of the Bedfordshire, Luton and Milton Keynes (BLMK) STP which has acquired "lead Accountable Care System" (ACS) status making it one of the benchmark STPs across the country. Twelve NHS organisations (i.e. three CCGs, three hospitals, two ambulance trusts, Central and North West London NHS Foundation Trust and three other partners that work both within our area and in other STP areas) and four councils are working together to develop and implement the STP for our area. The JHOSC proposed comprising Milton Keynes, Bedford, Central Bedfordshire and Luton Councils reflect the footprint covered by the BLMK STP.
- 2.4 It is possible that as a result of the STP process there may be proposals for changes to health services which could be considered to be 'substantial' under the relevant legislation and therefore NHS Commissioners would be required to carry out a public consultation.
- 2.5 Where the NHS considers that a service change may be required, and that there may need to be a public consultation, there is a requirement on the NHS to consult with the health scrutiny functions of those councils where there are residents affected by those proposals. If two or more council's health scrutiny functions consider the proposals to be substantial and also wish to be formally consulted on those proposals then legislation requires those councils to establish a JHOSC for this purpose. This JHOSC would be the sole statutory health scrutiny consultee for the purposes of that consultation.
- 2.6 Council approval of the recommendations in this report will enable Milton Keynes Council to put in place appropriate arrangements for the scrutiny of the STP and any substantial proposals arising from the STP process.

3. Options

3.1 *Options for Models for a JHOSC for the STP*

There are three possible models for a standing JHOSC for the BLMK STP, taking into account that there is a statutory requirement to form a JHOSC where proposals for substantial service change affect the residents of more than one local authority area. The following options provide the opportunity for councillors to consider adding discretionary as well as statutory powers to a JHOSC.

3.2 *Option 1: Separate JHOSC arrangements*

Under Option 1 each Overview and Scrutiny Committee (OSC) covered by the STP footprint would separately consider each service proposal as it came forward and set up a JHOSC for each one if more than one council considered it to be a substantial change.

Councillors should be aware that this option could lead to several JHOSCs being formed across the STP footprint comprising of two or more councils considering different elements of the priorities of the STP. It would encourage duplication and add delays into the process of arranging necessary shared meetings, such delays could impact on the ability of the authorities to effectively consider service proposals in fast moving environment of change in health provision.

3.3 *Option 2: Statutory JHOSC where councils separately consider if the matter is substantial*

Under Option 2 a standing JHOSC would be established only to be used when necessary. NHS commissioners would present a report to each of the relevant OSCs separately where the public may be affected. If the relevant OSCs/HASCs agree that the change is substantial it is referred to the standing JHOSC for formal consideration.

In order to minimise duplication the JHOSC could be given the role of considering whether or not a proposal was substantial, which would be a streamlined approach and allow for consistency between proposals, as opposed to that role sitting with each local authority's health OSC separately.

Where the proposal affected only one authority, it would be referred back to that authority's health OSC.

This option does not provide the JHOSC with discretionary powers in relation to the 'strategic' scrutiny of the STP, which would be left to the local authority health OSCs to carry out separately.

3.4 *Option 3: Discretionary JHOSC with statutory scrutiny powers*

Under Option 3 any proposed changes to services under the auspices of the STP would be presented to the JHOSC as soon as possible setting out the reasons for the review, a preliminary engagement plan and the timetable for the review. The JHOSC would decide whether the change was substantial and review the proposals at a JHOSC meeting.

In addition the HASCs/OSCs would agree to delegate the discretionary powers to consider the strategic issues associated with the STP and to look at the 'interconnected' issues between the priorities, and scrutinise those

elements, such as NHS digitisation or the development of an ACS/Organisation. This option allows councillors to link the strategic scrutiny of the STP to those proposals for change, and to consider the inter-dependencies of the workstreams across the STP.

One JHOSC will enable councillors to develop continuing familiarity with the STP and its workstreams, and would therefore strengthen their scrutiny of proposals. It could also compare service change proposals to ensure a consistent approach to what constituted substantial, and what good engagement looked like.

Option 3 provides a more timely process as the NHS would only need to take issues to one body rather than four. A JHOSC meeting would be able to consider several proposals at the same time. It would also be able to share the administrative requirements of this process.

4. Implications

4.1 Policy

Milton Keynes Council membership of JHOSC contribute to the Council's partnership goal of working with health and other public services to innovate, reform and improve outcomes. It would also contribute to the Council's objective of "A Healthy Place" ensuring lifelong wellbeing for all, with people living long and healthy lives.

Further beneficial implications for Milton Keynes Council of JHOSC are:

- Avoids the appearance of BLMK Councils (including Milton Keynes) being 'behind the curve' as JHOSCs have been or are being set up regionally across England;
- Ensures the Council is informed regarding current regional health service provision affecting the borough;
- Enables the Council to obtain greater information from the NHS and neighbouring Councils which could be of immense value in local health scrutiny;
- Provides a good opportunity to build effective working relationships across the footprint, build confidence and credibility and cement a good reputation for Milton Keynes Council;
- Enables the Council to influence in this important arena.

4.2 Resources and Risk

Any costs arising from the establishment of a JHOSC can be met from existing resources.

If the health scrutiny function considered a proposal on health services across two or more council areas to be substantial, but did not join a joint committee with other affected councils, then it would not be able to effectively exercise its statutory powers, including referral to the Secretary of State for Health, in respect of that proposal. There is a risk therefore that the Council may not be able to properly represent the impact of the proposal on its residents and services, for example, in areas, such as social care.

N	Capital	N	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

4.3 Carbon and Energy Management

None

4.4 Legal

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulation 2013 set out the health scrutiny powers of local authorities in relation to health services delivered to residents in their area. This includes a requirement that, where a council health scrutiny function wishes to be formally consulted on a change to health services and that the proposal affects other councils who also consider the proposal to be substantial, a joint health scrutiny committee is established. Without a joint committee, the health scrutiny functions cannot separately be consulted or exercised with regard to that proposal.

Councils may appoint a discretionary joint health scrutiny committee (Regulation 30) to carry out all or specified health scrutiny functions in relation to health issues that cross council boundaries. Establishing a JHOSC doesn't prevent each individual appointing council from separately scrutinising health issues and it's sensible that they continue to do so for local matters.

Milton Keynes Council appointments to JHOSC is governed by *Article 4.2* of the Constitution. Appointments should be politically balanced unless this is waived by full Council. Appointees may not be councillors who are on the Cabinet. Nothing in the Constitution compels the appointment of only current scrutiny councillors to an 'outside' scrutiny body, although appointed councillors should not have a conflict of interest; so councillors on the Health & Well Being Board are not eligible for such appointment.

A JHOSC does not have any additional decision making powers beyond a scrutiny body.

4.5 Other Implications

None

N	Equalities/Diversity	N	Sustainability	N	Human Rights
N	E-Government	N	Stakeholders	N	Crime and Disorder

Background Papers: BLMK Update on the Sustainability and Transformation Partnership (STP) and Accountable Care System for Bedfordshire, Luton and Milton Keynes (BLMK), 30th June 2017

Local Authority Health Scrutiny Guidance, Department of Health (2014)

Annex: JHOSC Terms of Reference