



COUNCIL SUMMONS

To Members of the Metropolitan Borough Council

Dear Councillor

You are requested to attend the Adjourned Annual Meeting of the Sefton Metropolitan Borough Council to be held on **Tuesday 3rd June, 2014 at 6.30 pm at the Town Hall, Bootle** to transact the business set out on the agenda overleaf.

Yours sincerely,

A handwritten signature in black ink that reads "M. Carney".

Chief Executive

Town Hall,
Southport

Friday 23 May 2014

Please contact Steve Pearce, Democratic Services Manager
on 0151 934 2046 or e-mail steve.pearce@sefton.gov.uk

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting.

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A G E N D A

1. Apologies for Absence

2. Declarations of Interest

Members are requested to give notice of any disclosable pecuniary interest, which is not already included in their Register of Members' Interests and the nature of that interest, relating to any item on the agenda in accordance with the Members Code of Conduct, before leaving the meeting room during the discussion on that particular item.

3. Minutes of Previous Meeting

(Pages 5 - 8)

Minutes of the Ordinary Council meeting held on 24 April 2014.

4. Mayor's Communications

Public Session

5. Matters Raised by the Public

To deal with matters raised by members of the public resident within the Borough, of which notice has been given in accordance with the procedures relating to public questions, motions or petitions set out in Paragraph 36 to 46 of the Council and Committee Procedure Rules in the Council Constitution.

Council Business Session

6. Election Results - 22 May 2014

To receive and note the report of the Chief Executive and Returning Officer on the results of the Council Elections held on 22 May 2014. (to follow)

7. Leader of the Council

To note that Councillor P. Dowd was appointed as the Leader of the Council by the Council on 17 May 2011 for a four year term.

8. Cabinet and Deputy Leader of the Council

Report of the Leader of the Council to be circulated prior to the meeting.

**9. Appointment of Committees and Working Groups
2014/15**

- a) To Determine the Size and Membership of Committees and Working Groups in accordance with the Political Balance Rules

Details of the allocation of Committee Places in accordance with the Political Balance Rules and the proposed membership of Committees and Working Groups for 2014/15 will be circulated prior to the meeting.

- b) Terms of Reference for Committees and Working Groups

Subject to the item above, the Council is requested to approve the terms of reference of the Committees and Working Groups, as set out in Chapters 6 and 7 of the Council Constitution

10. Appointment of Representatives on Merseyside Joint Authorities 2014/15

Details of the proposed representation on the Merseyside Joint Authority bodies for 2014/15 will be circulated prior to the meeting.

11. Appointment of Representatives on Sefton Partnership Bodies 2014/15

Details of the proposed representation on the Partnership Bodies for 2014/15 will be circulated prior to the meeting.

12. Dates of Council Meetings 2014/15

To note that the Council meetings scheduled to be held during the Municipal Year 2014/15 are as follows:

- 24 July 2014
- 25 September 2014
- 16 October 2014 (Extra-ordinary Meeting)
- 20 November 2014
- 29 January 2015
- 5 March 2015 (Budget Meeting)
- 23 April 2015

13. Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside (Pages 9 - 22)

Report of the Director of Corporate Services.

THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

COUNCIL

MEETING HELD AT THE TOWN HALL, SOUTHPORT ON THURSDAY 24TH APRIL, 2014

PRESENT: The Mayor (Councillor M. Fearn) (in the Chair)
The Deputy Chair (Councillor K. Cluskey) (Vice Chair)

Councillors Ashton, Atkinson, Ball, Bennett, Booth, Bradshaw, Brennan, Brodie - Browne, Byrom, Carr, L. Cluskey, Cummins, Cuthbertson, Dawson, Dodd, Dorgan, M. Dowd, P. Dowd, Dutton, Lord Fearn, Friel, Gatherer, Hardy, Hands, Hartill, Hubbard, Jones, John Kelly, John Joseph Kelly, Kermode, Kerrigan, Killen, Lappin, P. Maguire, Maher, Mahon, McGinnity, S. McGuire, McIvor, McKinley, Moncur, Murphy, Page, Papworth, Preece, Rimmer, Roberts, Robinson, Roche, Shaw, Sumner, Thompson, Tonkiss, Tweed, Veidman, Sir Ron Watson, Weavers, Webster and Welsh

106. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Blackburn, Crabtree, Fairclough, Keith and Robertson.

107. DECLARATIONS OF INTEREST

No declarations of interest were received.

108. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the Council meeting held on 6 March 2014 be approved as a correct record.

109. MAYOR'S COMMUNICATIONS

Councillors Not Seeking Re-Election

The Mayor reported this was the last Council meeting before the Council Elections on 22 May 2014 and that the following Councillors would not be seeking re-election:

- Councillor Blackburn, who had 17 years service on the Council;
- Councillor Linda Cluskey, who had 12 years service on the Council;

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- Councillor Rimmer, who had 10 years service on the Council;
- Councillor Sumner, who had 16 years service on the Council; and
- Councillor Sir Ron Watson, who had 40 years service on the Council, which is a remarkable achievement.

On behalf of the Council, the Mayor thanked those Members for their dedicated service to the people of Sefton and extended best wishes to them for the future.

Councillors P. Dowd, Brodie – Browne and Jones paid tribute to service given by Councillors Blackburn, L. Cluskey, Rimmer, Sumner and Sir Ron Watson

Mayor Elect 2014/15

The Mayor reported that the Cabinet at its meeting held on 27 March 2014 had agreed that the Council be recommended to elect Councillor Kevin Cluskey as the Mayor for 2014/15 at the Annual Council meeting to be held on 29 May 2014.

Mayor of Sefton's Charity Ball Update

The Mayor reported that the sum of £8,944 had been raised at the Mayoral Charity Ball held on 8 March 2014 and she expressed her thanks to all who contributed or supported in any way to the success of the Ball.

110. MATTERS RAISED BY THE PUBLIC

The Mayor reported that no matters had been raised by Members of the Council.

111. QUESTIONS RAISED BY MEMBERS OF THE COUNCIL

The Council considered a schedule setting out a written question submitted by Councillor Brodie – Browne to the Chair of the Planning Committee (Councillor Veidman) together with the response given. A supplementary question was asked and responded to by the Committee Chair.

112. DESIGNATION OF FURTHER STREETS UNDER THE COUNTY OF MERSEYSIDE ACT 1980

Further to Minute No. 63 of the meeting held on 21 November 2013, the Council considered a further report of the Director of Built Environment on the proposal for the designation of two additional areas at Ormskirk Road between Park Lane and Copy Lane; and Park Lane from its junction with Ormskirk Road to the railway bridge, where street trading should be

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prohibited under the County of Merseyside Act 1980 in order to address the problems of ticket touts at the Grand National Meetings in Aintree.

It was moved by Councillor Kerrigan, seconded by Councillor Robinson and

RESOLVED:

That:

- (1) approval be given to the designation of those areas referred to in Annex 1 of the report under Section 36 of the County of Merseyside Act 1980 for where street trading is prohibited; and
- (2) the Head of Corporate Legal Services be authorised to arrange for the publication of the Council's resolution.

113. PROPOSED CHANGES TO THE CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING APPLICATIONS

The Council considered the report of the Director of Built Environment setting out proposals to revise the Code of Conduct for Councillors and Officers dealing with Planning Applications as set out in the Constitution and to update the Constitution as appropriate

The following matters were proposed and were intended to provide further transparency, clarity and equity to the processes of the Planning Committee and its decision making:-

- (i) the ongoing monthly training programme for Members to be continued;
- (ii) mandatory training;
- (iii) annual appointments;
- (iv) attendance on the Visiting Panel for Members or substitutes to be strongly advised;
- (v) attendance at the relevant Planning Committee and Visiting Panel meetings by the same Member/substitute wherever possible;
- (vi) Ward Members must contact the appropriate Democratic Services Officer by 12 noon the day before a Committee meeting if they wish to address the Committee regarding an application and make their address after any petitioner, but before the respondent; or before the applicant/agent if there is no petition; and
- (vii) the late submission of materials/photographs by petitioners/applicants to the Committee, at the meeting, to be prohibited.

The Mayor reported that the Planning Committee had considered the report on 3 April 2014 and endorsed the recommendations and that the Audit and Governance Committee had also considered the report on 16 April 2014 and a copy of the resolution agreed by that Committee had

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been included in the supplementary agenda, circulated to all Members of the Council.

It was moved by Councillor Roberts, seconded by Councillor McGinnity and

RESOLVED:

That the measures as set out in the report approved and that the Code of Conduct for Councillors and Officers Dealing with Planning Applications in the Constitution be updated to reflect the approved changes, subject to the following amended matter:

(vi) that Ward Members must contact the appropriate Democratic Services Officer by 12 noon the day before a Committee meeting if they wish to address the Committee regarding an application and make their address after any petitioner and the respondent; or before the applicant/agent if there is no petition.

114. PROGRAMME OF MEETINGS 2014/15

Further to Minute No.110 of the Cabinet meeting held on 27 February 2014, the Council considered the report of the Director of Corporate Services which provided details of the proposed Programme of Meetings for the 2014/15 Municipal Year.

It was moved by Councillor P. Dowd, seconded by Councillor Maher and

RESOLVED:

That:

- (1) the Programme of Meetings for the Council, Member Briefing Sessions; Regulatory Committees; Overview and Scrutiny Committees, Area Committees and Health and Wellbeing Board for 2014/15 as set out in Annexes B, C, D and E of the report be approved; and
- (2) the Programme of Meetings for the Cabinet, Public Engagement and Consultation Panel, Sefton Borough Partnership Operations Board and Sefton Safer Communities Partnership for 2014/15 as set out in Annexes A and E of the report be noted.

115. MEMBERSHIP OF COMMITTEES 2013/14

No changes were made to the Membership of Committees.

Report to: Overview and Scrutiny Committee (Health and Social Care) **Date of Meeting:** 6 May 2014

Council 3 June 2014

Subject: Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside

Report of: Director of Corporate Services **Wards Affected:** All

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To agree the attached protocol for submission to the Council for approval.

Recommendation

That the Protocol for the establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside attached to the report be agreed and recommended to the Council for approval.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being	√		
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

Health scrutiny regulations require the establishment of joint health scrutiny committees where more than one local authority’s health scrutiny arrangements consider a proposed change or development in NHS services to be “substantial” in terms of the impact on its area.

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What will it cost and how will it be financed? N/A

Implications: N/A

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery: N/A

What consultations have taken place on the proposals and when? N/A

The Head of Corporate Finance and ICT has no comments on this report because the contents of the report have no direct financial implications for the Council. (FD: No. 2942/14).

The Head of Legal Services has been consulted and has no comments on this report. There are no legal implications arising from the contents of this report. (LD: No. 2247/14).

Are there any other options available for consideration?

The Committee or the Council could refuse to approve the protocol. However, in the event that the Overview and Scrutiny Committee (Health and Social Care) subsequently agrees that any proposed changes or developments in NHS services are “substantial”, it could prove difficult for any Council representative(s) to be part of a joint health scrutiny arrangement for Cheshire and Merseyside if the Council had not agreed to the protocol guiding the operation of those joint health scrutiny arrangements, particularly if other local authorities had agreed the protocol.

Implementation Date for the Decision

Immediately following the Council meeting.

Contact Officer: Debbie Campbell

Tel: ext. 2254

Email: debbie.campbell@sefton.gov.uk

Background Papers:

There are no background papers available for inspection.

1. Background

- 1.1 The Clatterbridge Cancer Centre NHS Foundation Trust (the Trust), currently based on the Wirral, is undertaking a pre-consultation exercise at present to explain the transformation of cancer care across Cheshire and Merseyside.
- 1.2 The proposal is to develop a comprehensive cancer centre by building a new Clatterbridge Cancer Centre at a site adjacent to the Royal Liverpool University Hospital, based in Liverpool City Centre, for inpatient services. The Trust's Wirral site would be retained for outpatient radiotherapy and chemotherapy treatments for Wirral and West Cheshire patients who would find it easier to access the Wirral site than Liverpool. The satellite radiotherapy facility at the Aintree site would also be retained, as would services in existing clinics across the region.
- 1.3 In due course the Trust will be seeking opinion from local Overview and Scrutiny Committees on whether they consider the proposals to be a substantial variation in services and will only be working with those local authorities who consider it to be so.
- 1.4 The term "substantial" is not defined in legislation. However, it is generally considered that a substantial change or variation to a health service is one that has a major impact on services experienced by patients and/or future patients. In considering whether a proposal is substantial, local authorities are encouraged to consider the following criteria:-
 - Changes in accessibility of services – any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location.
 - Impact on the wider community and other services – this could include economic impact, transport, regeneration issues.
 - Patients affected – changes may be affect the whole population, or a small group. If changes affect a small group, the proposal may still be regarded as substantial, particularly if patients need to continue accessing that service for many years.
 - Methods of service delivery – altering the way a service is delivered may be a substantial change, eg. Moving a particular service into community settings rather than being entirely hospital based;
 - Potential level of public interest – proposals that are likely to generate a significant level of public interest in view of their likely impact.
- 1.5 There are 9 local authorities across Cheshire and Merseyside potentially affected by these proposals and the relevant regulations state:-

“(5) Where a responsible person (*i.e. a Health Organisation*) consults more than one local authority pursuant to [regulation 23](#), those local authorities **must** appoint a joint overview and scrutiny committee for the purposes of the consultation and only that joint overview and scrutiny committee may—

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(a) make comments on the proposal consulted on pursuant to [regulation 23\(4\)](#);
(b) require the provision of information about the proposal under [regulation 26](#); or
(c) require a member or employee of a responsible person to attend before it under [regulation 27](#) to answer questions in connection with the consultation.”

- 1.6 Without wishing to pre-empt any forthcoming decision(s) as to whether or not the proposals constitute a substantial variation in services, there is a distinct possibility that this may occur across a number of local authorities. Where a proposal impacts on more than one area, there is a requirement for local authorities to form a joint health scrutiny committee.
- 1.7 Mindful of the likelihood of a joint health scrutiny committee being required, officers at Knowsley MBC have taken the lead in drafting a protocol for how such arrangements might operate in practice. Much of the protocol attached has been drafted based on the one developed by Yorkshire and the Humber Councils on a proposed reconfiguration of children’s congenital heart services in England.
- 1.8 In developing the draft protocol individual authorities across Cheshire and Merseyside were particularly consulted on proposals regarding membership of a joint health scrutiny committee.
- 1.9 Officers across Cheshire and Merseyside were invited to attend a meeting at Knowsley MBC at the end of February 2014 to discuss the logistics of how a joint protocol might be adopted across 9 authorities. It was agreed at the meeting that any comments on the draft protocol should be submitted to Knowsley MBC by the end of March 2014, in order that all the relevant local authorities would approve the same document. Amendments submitted by other local authorities have been incorporated into the protocol now submitted at **Appendix A**.
- 1.10 The issues regarding political proportionality of any joint Scrutiny Committee are set out in paragraph 6.3.2 of the protocol.

2. Recent Developments

- 2.1 Early indications are that it is possible that other variations in health services across Cheshire and Merseyside may occur in the future. In the event that any future variations are deemed to be “substantial”, the protocol could also be applied to other joint health scrutiny committee arrangements established across the patch.

PROTOCOL FOR ESTABLISHMENT OF JOINT HEALTH SCRUTINY ARRANGEMENTS FOR CHESHIRE AND MERSEYSIDE

1. INTRODUCTION

1.1 This protocol has been developed as a framework for the operation of joint health scrutiny arrangements across the local authorities of Cheshire and Merseyside. It allows for:

- scrutiny of substantial developments and variations of the health service; and,
- discretionary scrutiny of local health services

1.2 The protocol provides a framework for health scrutiny arrangements which operate on a joint basis only. Each constituent local authority should have its own local arrangements in place for carrying out health scrutiny activity individually.

2. BACKGROUND

2.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 came into effect on 1 April 2013 revising existing legislation regarding health scrutiny.

2.2 In summary, the revised statutory framework authorises local authorities to:

- review and scrutinise any matter relating to the planning, provision and operation of the health service; and,
- consider consultations by a relevant NHS body or provider of NHS-funded services on any proposal for a substantial development or variation to the health service in the local authority's area.

2.3 Ultimately the regulations place a requirement on relevant scrutiny arrangements to reach a view on whether they are satisfied that any proposal that is deemed to be a substantial development or variation is in the interests of the health service in that area, or instead, that the proposal should be referred to the Secretary of State for Health. In instances where a proposal impacts on the residents of one local authority area exclusively, this responsibility lays with that authority's health scrutiny arrangements alone.

2.4 Where such proposals impact on more than one local authority area, each authority's health scrutiny arrangements must consider whether the proposals constitute a substantial development or variation or not. The regulations place a requirement on those local authorities that agree that a proposal is substantial to establish, in each instance, a joint overview and scrutiny committee for the purposes of considering it. This protocol deals with the proposed operation of such arrangements for the local authorities of Cheshire and Merseyside.

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3. PURPOSE OF THE PROTOCOL

3.1 This protocol sets out the framework for the operation of joint scrutiny arrangements where:

- a) an NHS body or health service provider consults with more than one local authority on any proposal it has under consideration, for a substantial development/variation of the health service;
- b) joint scrutiny activity is being carried out on a discretionary basis into the planning, provision and operation of the health service

3.2 The protocol covers the local authorities of Cheshire and Merseyside including:

- Cheshire East Council
- Cheshire West and Chester Council
- Halton Borough Council
- Knowsley Council
- Liverpool City Council
- St. Helens Metropolitan Borough Council
- Sefton Council
- Warrington Borough Council
- Wirral Borough Council

3.3 Whilst this protocol deals with arrangements within the boundaries of Cheshire and Merseyside, it is recognised that there may be occasions when consultations/discretionary activity may affect adjoining regions/ areas. Arrangements to deal with such circumstances would have to be determined and agreed separately, as and when appropriate.

4. PRINCIPLES FOR JOINT HEALTH SCRUTINY

4.1 The fundamental principle underpinning joint health scrutiny will be co-operation and partnership with a mutual understanding of the following aims:

- To improve the health of local people and to tackle health inequalities;
- To represent the views of local people and ensure that these views are identified and integrated into local health service plans, services and commissioning;
- To scrutinise whether all parts of the community are able to access health services and whether the outcomes of health services are equally good for all sections of the community; and,
- To work with NHS bodies and local health providers to ensure that their health services are planned and provided in the best interests of the communities they serve.

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5. SUBSTANTIAL DEVELOPMENT/VARIATION TO SERVICES

5.1 Requirements to consult

- 5.1.1 All relevant NHS bodies and providers of NHS-funded services¹ are required to consult local authorities when they have a proposal for a substantial development or substantial variation to the health service.
- 5.1.2 A substantial development or variation is not defined in legislation. Guidance has suggested that the key feature is that it should involve a major impact on the services experienced by patients and/or future patients.
- 5.1.3 Where a substantial development or variation impacts on the residents within one local authority area boundary, only the relevant local authority health scrutiny function shall be consulted on the proposal.
- 5.1.4 Where a proposal impacts on residents across more than one local authority boundary, the NHS body/health service provider is obliged to consult all those authorities whose residents are affected by the proposals in order to determine whether the proposal represents a substantial development or variation.
- 5.1.5 Those authorities that agree that any such proposal does constitute a substantial development or variation are obliged to form a joint health overview and scrutiny committee for the purpose of formal consultation by the proposer of the development or variation.
- 5.1.6 Whilst each local authority must decide individually whether a proposal represents a substantial development/variation, it is only the statutory joint health scrutiny committee which can formally comment on the proposals if more than one authority agrees that the proposed change is “substantial”.
- 5.1.7 Determining that a proposal is not a substantial development/variation removes the ability of an individual local authority to comment formally on the proposal and exercise other powers, such as the power to refer to the Secretary of State. Once such decisions are made, the ongoing obligation on the proposer to consult formally on a proposal relates only to those authorities that have deemed the proposed change to be “substantial” and this must be done through the vehicle of the joint committee. Furthermore the proposer will not be obliged to provide updates or report back on proposals to individual authorities that have not deemed them to be “substantial”.

¹ This includes the NHS England, any Clinical Commissioning Group providing services to the residents of Cheshire and Merseyside, an NHS Trust, an NHS Foundation Trust and any other relevant provider of NHS funded services which provides health services to those residents, including public health.

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5.2 Process for considering proposals for a substantial development/variation

5.2.1 In consulting with the local authority in the first instance to determine whether the change is considered substantial, the NHS body/ provider of NHS-funded service is required to:

- Provide the proposed date by which it requires comments on the proposals
- Provide the proposed date by which it intends to make a final decision as to whether to implement the proposal
- Publish the dates specified above
- Inform the local authority if the dates change²

5.2.3 NHS bodies and local health service providers are not required to consult with local authorities where certain 'emergency' decisions have been taken. All exemptions to consult are set out within regulations.³

5.2.4 In considering whether a proposal is substantial, all local authorities are encouraged to consider the following criteria:

- *Changes in accessibility of services:* any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location.
- *Impact on the wider community and other services:* This could include economic impact, transport, regeneration issues.
- *Patients affected:* changes may affect the whole population, or a small group. If changes affect a small group, the proposal may still be regarded as substantial, particularly if patients need to continue accessing that service for many years.
- *Methods of service delivery:* altering the way a service is delivered may be a substantial change, for example moving a particular service into community settings rather than being entirely hospital based.
- *Potential level of public interest:* proposals that are likely to generate a significant level of public interest in view of their likely impact.

5.2.5. This criteria will assist in ensuring that there is a consistent approach applied by each authority in making their respective decisions on whether a proposal is "substantial" or not. In making the decision, each authority will focus on how the proposals impacts on its own area/ residents.

² Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

³ Section 24 *ibid*

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6. OPERATION OF A STATUTORY JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE

6.1 General

6.1.1 A joint health overview and scrutiny committee will be made up of each of the constituent local authorities that deem a proposal to be a substantial development or variation. This joint committee will be formally consulted on the proposal and have the opportunity to comment. It will also be able to refer to the Secretary of State for Health if any such proposal is not considered to be in the interests of the health service.

6.1.2 A decision as to whether the proposal is deemed substantial shall be taken within a reasonable timeframe and in accordance with any deadline set by the lead local authority, following consultation with the other participating authorities.

6.2 Powers

6.2.1 In dealing with substantial development/variations, any statutory joint health overview and scrutiny committee that is established can:

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make comments on the subject proposal by a date provided by the NHS body/local health service provider
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- carry out further negotiations with the relevant NHS body where it is proposing not to agree to a substantial variation proposal; and
- where agreement cannot be reached, to notify the NHS body of the date by which it intends to make the formal referral to the Secretary of State

6.2.2 A joint health overview and scrutiny committee has the power to refer a proposal to the Secretary of State if:

- the committee is not satisfied that consultation with the relevant health scrutiny arrangements on any proposal has been adequate
- it is not satisfied that reasons for an 'emergency' decision that removes the need for formal consultation with health scrutiny are adequate
- it does not consider that the proposal would be in the interests of the health service in its area

6.2.3 Where a committee has made a recommendation to a NHS body/local health service provider regarding a proposal and the NHS body/provider disagrees with the recommendation, the local health service provider/NHS body is

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required to inform the joint committee and attempt to enter into negotiation to try and reach an agreement. In this circumstance, a joint committee has the power to report to the Secretary of State if:

- relevant steps have been taken to try to reach agreement in relation to the subject of the recommendation, but agreement has not been reached within a reasonable period of time; or,
- There has been no attempt to reach agreement within a reasonable timeframe.

6.2.4 Where a committee disagrees with a substantial variation and has either made comments (without recommendations) or chosen not to provide any comments, it can report to the Secretary of State only if it has:

- Informed the NHS body/local health service provider of its decision to disagree with the substantial variation and report to the Secretary of State; or,
- Provided indication to the NHS body/local health service provider of the date by which it intends to make a referral.

6.2.5 In any circumstance where a committee disagrees with a proposal for a substantial variation, there will be an expectation that negotiations will be entered into with the NHS body/local health service provider in order to attempt to reach agreement.

6.2.6 Where local authorities have agreed that the proposals represent substantial developments or variations to services and agreed to enter into joint arrangements, it is only the joint health overview and scrutiny committee which may exercise these powers.

6.2.7 A statutory joint health overview and scrutiny committee established under the terms of this protocol may only exercise the powers set out in 6.2.1 to 6.2.3 above in relation to the statutory consultation for which it was originally established. Its existence is time-limited to the course of the specified consultation and it may not otherwise carry out any other activity.

6.3 Membership

6.3.1 Each participating local authority should ensure that those Councillors it nominates to a joint health overview and scrutiny committee reflect its own political balance.⁴ However, overall political balance requirements may be waived with the agreement of all participating local authorities.

6.3.2 A joint committee will be composed of Councillors from each of the participating authorities within Cheshire and Merseyside in the following ways:

- where 4 or more local authorities deem the proposed change to be substantial, each authority will nominate 2 elected members

⁴ Localism Act 2011, Schedule 2 9FA, 6 (b)

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- where 3 or less local authorities deem the proposed change to be substantial, then each participating authority will nominate 3 elected members.

(Note: In making their nominations, each participating authority will be asked to ensure that their representatives have the experience and expertise to contribute effectively to a health scrutiny process)

Local authorities who consider change to be 'substantial'	No' of elected members to be nominated from each authority
4 or more	2 members
3 or less	3 members

6.3.3 Each local authority will be obliged to nominate elected members through their own relevant internal processes and provide notification of those members to the lead local administrative authority at the earliest opportunity.

6.3.4 To avoid inordinate delays in the establishment of a relevant joint committee, it is suggested that constituent authorities arrange for delegated decision making arrangements to be put in place to deal with such nominations at the earliest opportunity.

6.5 Quorum

6.5.1 The quorum of the meetings of a joint committee shall be one quarter of the full membership of any Joint Committee, subject to the quorum being, in each instance, no less than 3.

6.5.2 There will be an expectation for there to be representation from each authority at a meeting of any joint committee established. The lead local authority will attempt to ensure that this representation is achieved.

6.6 Identifying a lead local authority

6.6.1 A lead local authority should be identified from one of the participating authorities to take the lead in terms of administering and organising a joint committee in relation to a specific proposal.

6.6.2 Selection of a lead authority should, where possible, be chosen by mutual agreement by the participating authorities and take into account both capacity to service a joint health scrutiny committee and available resources. The application of the following criteria should also guide determination of the lead authority:

- The local authority within whose area the service being changed is based;
or
- The local authority within whose area the lead commissioner or provider leading the consultation is based.

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6.6.3 Lead local authority support should include a specific contact point for communication regarding the administration of the joint committee. There will be an obligation on the key lead authority officer to liaise appropriately with officers from each participating authority to ensure the smooth running of the joint committee.

6.6.4 Each participating local authority will have the discretion to provide whatever support it may deem appropriate to their own representative(s) to allow them to make a full contribution to the work of a joint committee.

6.7 Nomination of Chair/ Vice-Chair

The chair/ vice-chair of the joint health overview and scrutiny committee will be nominated and agreed at the committee's first meeting. It might be expected that consideration would be given to the chair being nominated from the representative(s) from the lead authority.

6.8 Meetings of a Joint Committee

6.8.1 At the first meeting of any joint committee established to consider a proposal for a substantial development or variation, the committee will also consider and agree:

- The joint committee's terms of reference;
- The procedural rules for the operation of the joint committee;
- The process/ timeline for dealing formally with the consultation, including:
 - the number of sessions required to consider the proposal; and
 - the date by which the joint committee will make a decision as to whether to refer the proposal to the Secretary of State for Health – which should be in advance of the proposed date by which the NHS body/service provider intends to make the decision.

6.8.2 All other meetings of the joint committee will be determined in line with the proposed approach for dealing with the consultation. Different approaches may be taken for each consultation and could include gathering evidence from:

- NHS bodies and local service providers;
- patients and the public;
- voluntary sector and community organisations; and
- NHS regulatory bodies.

6.9 Reports of a Joint Committee

6.9.1 A joint committee is entitled to produce a written report which may include recommendations. As a minimum, the report will include:

- An explanation of why the matter was reviewed or scrutinised

Appendix A

- A summary of the evidence considered
- A list of the participants involved in the review
- An explanation of any recommendations on the matter reviewed or scrutinised

The lead authority will be responsible for the drafting of a report for consideration by the joint committee.

6.9.2 Reports shall be agreed by the majority of members of a joint committee and submitted to the relevant NHS body/health service provider or the Secretary of State as applicable.

6.9.3 Where a member of a joint health scrutiny committee does not agree with the content of the committee's report, they may produce a report setting out their findings and recommendations which will be attached as an appendix to the joint health scrutiny committee's main report.

7. DISCRETIONARY HEALTH SCRUTINY

7.1 More generally, the Health and Social Care Act 2012 and the 2013 Health Scrutiny Regulations provide for local authority health scrutiny arrangements to scrutinise the planning, provision and operation of health services.

7.2 In this respect, two or more local authorities may appoint a joint committee for the purposes of scrutinising the planning, provision and operation of health services which impact on a wider footprint than that of an individual authority's area.

7.3 Any such committee will have the power to:

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations

7.4 A discretionary joint committee will not have the power to refer an issue to the Secretary of State for Health.

7.5 In establishing a joint committee for the purposes of discretionary joint scrutiny activity, the constituent local authorities should determine the committee's role and remit. This should include consideration as to whether the committee operates as a standing arrangement for the purposes of considering all of the planning, provision and operation of health services within a particular area or whether it is being established for the purposes of considering the operation of one particular health service with a view to making recommendations for its improvement. In the case of the latter, the committee must disband once its specific scrutiny activity is complete.

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7.6 In administering any such committee, the proposed approach identified in sections 6.3 – 6.9 (disregarding any power to refer to the Secretary of State) of this protocol should be followed, as appropriate.

8. CONCLUSION

8.1 The local authorities of Cheshire and Merseyside have adopted this protocol as a means of governing the operation of joint health scrutiny arrangements both mandatory and discretionary. The protocol is intended to support effective consultation with NHS bodies or local health service providers on any proposal for a substantial development of or variation in health services. The protocol also supports the establishment of a joint health overview and scrutiny committee where discretionary health scrutiny activity is deemed appropriate.

8.2 The protocol will be reviewed regularly, and at least on an annual basis to ensure that it complies with all current legislation and any guidance published by the Department of Health.

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