

## COUNTY COUNCIL – 15 MAY 2018

### Response to the Secretary of State and Independent Reconfiguration Panel (IRP) recommendations

Report by Director of Law & Governance and Monitoring Officer

#### Purpose

1. This report outlines the suggested response for Oxfordshire County Council to respond to the Secretary of State and Independent Reconfiguration Panel (IRP) recommendations in relation to the closure of consultant-led maternity services at the Horton General Hospital.

#### Background

2. Oxfordshire's Joint Health Overview and Scrutiny Committee (JHOSC) referred Oxfordshire Clinical Commissioning Group's decision to permanently close consultant-led maternity services at the Horton General Hospital to the Secretary of State in August 2017. The matter was passed to the IRP for initial assessment.
3. The Secretary of State wrote to Oxfordshire JHOSC on the 7 March 2018 to state that "*further action is required locally before a final decision is made about the future of maternity services in Oxfordshire*". The Secretary of State confirmed his support of the following recommendations in relation to JHOSC:
  - (i) HOSC and the CCG to work together to invite stakeholders from surrounding areas that are impacted by these proposals to participate in this debate going forward. This should include the consideration of forming a joint oversight and scrutiny committee covering a wider area (for example all of the local authorities that took part in the consultation) which would help meet the concerns expressed in the IRP's report of their review;
  - (ii) Where the CCG consults more than one local authority about a proposal, they must appoint a joint overview and scrutiny committee for the purposes of the consultation.
4. At its meeting of the 19<sup>th</sup> of April 2018 Oxfordshire JHOSC considered its response to the Secretary of State. At that meeting the CCG confirmed its intention to consult on consultant-led obstetric services at the Horton General Hospital. Oxfordshire JHOSC gave its support to establish a separate inter-county Joint Health Overview and Scrutiny Committee to scrutinise these proposals.

5. Oxfordshire JHOSC recognised the need for a specific committee to be established on the patient flow area in question; Oxfordshire, Northamptonshire and Warwickshire.

### **The proposal**

6. This proposal requires Oxfordshire County Council and its counterpart authorities in Warwickshire and Northamptonshire to delegate powers of health scrutiny of this specific issue to a new joint committee. Scrutiny of all other issues remain with the respective, established health scrutiny committees. The powers of the new joint committee would therefore be in regard to the proposals and consultation of consultant-led obstetric services at the Horton General Hospital and means:
  - Only the new joint committee may respond to the consultation;
  - Only the new joint committee may exercise the power to require the provision of information;
  - Only the new joint committee may exercise the power to require attendance;
  - The new joint committee would hold the power to refer to the Secretary of State only on the consultation of consultant-led obstetric services at the Horton General Hospital.
7. Draft Terms of Reference for the new committee are proposed in Annex A. To avoid confusion with any other Joint Health Scrutiny arrangements (as there are in Oxfordshire), the proposed new committee is referred to as the “Horton Joint Health Overview and Scrutiny Committee”.
8. The proposed Terms of Reference, including membership, need to be agreed with Oxfordshire, Northamptonshire and Warwickshire County Councils before the new Joint HOSC can be established. The draft Terms of Reference are based on principles agreed by the Oxfordshire JHOSC.
9. In order not to delay the work of the new Joint HOSC, should the recommendations below be agreed, the Monitoring Officer will exercise his delegation under rule 6.4(l) to confirm Oxfordshire County Council’s membership of the new Joint Committee in consultation with Group Leaders. Membership to be reported to full Council.

### **Legal implications**

10. The Council MUST set up the joint committee under Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

### **RECOMMENDATIONS**

11. **Council is RECOMMENDED to:**

- (a) agree to establish a Health Scrutiny Committee with Northamptonshire and Warwickshire County Councils with the express purpose of responding to the consultation for substantial reconfiguration of consultant-led obstetric services at the Horton General Hospital;**
- (b) delegate to the joint committee, this Council's power to refer any such consultation to the secretary of state;**
- (c) delegate to the Monitoring Officer and the Director of Public Health in consultation with the Chairman of Oxfordshire Joint HOSC, the power to finalise and agree the Terms of Reference for the new Joint HOSC based on the draft at Annex A.**

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**ANNEX A**

**Horton Joint Health Overview and Scrutiny Committee  
(Oxfordshire, Northamptonshire and Warwickshire)  
Draft Terms of Reference  
April 2018**

**Rationale**

1. Health Services are required to consult a local authority's Health Overview and Scrutiny Committee about any proposals they have for a substantial development or variation in the provision of health services in their area. When these substantial developments or variations affect a geographical area that covers more than one local authority, the local authorities are required to appoint a Joint Health Overview and Scrutiny Committee (HOSC) for the purposes of the consultation.
2. In response to the Oxfordshire Clinical Commissioning Group's proposals regarding consultant-led maternity services at the Horton General Hospital, the Secretary of State and Independent Reconfiguration Panel (IRP) have advised a HOSC be formed covering the area of patient flow for these services. The area of patient flow for obstetric services at the Horton General Hospital covers Oxfordshire, Northamptonshire and Warwickshire.
3. These terms of reference set out the arrangements for Oxfordshire County Council, Northamptonshire County Council and Warwickshire County Council to operate a Joint HOSC Committee in line with the provisions set out in legislation and guidance to allow it to operate as a mandatory committee.

**Terms of Reference**

4. The new Joint Health Overview and Scrutiny Committee will operate formally as a mandatory joint committee i.e. where the councils have been required under Regulation 30 (5) Local Authority (Public Health, Health and Well-being Boards and Health Scrutiny) Regulations 2013 to appoint a joint committee for the purposes of the specified consultation on consultant-led obstetric services at the Horton General Hospital.
5. The purpose of the mandatory Horton Joint HOSC across Oxfordshire, Northamptonshire and Warwickshire is to:

- a) Make comments on the proposal consulted on
  - b) Require the provision of information about the proposal
  - c) Require the member or employee of the relevant health service to attend before it to answer questions in connection with the consultation.
  - d) Refer to the Secretary of State only on the consultation of consultant-led obstetric services at the Horton General Hospital where it is not satisfied that:
    - Consultation on any proposal for a substantial change or development has been adequate in relation to content or time allowed (NB. The referral power in these contexts only relates to the consultation with the local authorities, and not consultation with other stakeholders)
    - That the proposal would not be in the interests of the health service in the area
    - A decision has been taken without consultation and it is not satisfied that the reasons given for not carrying out consultation are adequate
6. The response to the consulting health service will be agreed by the Joint Health Overview and Scrutiny Committee and signed by the Chairman.
  7. With the exception of proposals to permanently close consultant-led obstetric services at the Horton General Hospital, responsibility for all other health scrutiny functions and activities remain with the respective local authority Health Scrutiny Committees.
  8. No matter to be discussed by the Committee shall be considered to be confidential or exempt without the agreement of all Councils and subject to the requirements of Schedule 12A of the Local Government Act 1972.

## **Timescales & Governance**

9. The Horton Joint Health Overview and Scrutiny Committee will operate as a mandatory Committee only while the proposed service changes that affect the relevant areas are considered. This period is from the point at which the relevant health body notifies the Joint HOSC of the formal consultation timetable and the point at which a decision is taken.
10. Meetings of the Joint HOSC will be conducted under the Standing Orders of Oxfordshire County Council (i.e. the Local Authority hosting and providing democratic services support).

## **Membership**

11. Membership of the Joint HOSC will be appointed by Oxfordshire County Council, Northamptonshire County Council and Warwickshire County Council from the membership of their Scrutiny Committees that have responsibility for discharging health scrutiny functions.
12. Appointments to the Joint Committee have regard to the proportion of patient flow for consultant-led obstetric services at the Horton General Hospital. Using latest figures available from 2015/16, of the 1466 births at the Horton General Hospital, 4% came from women with Warwickshire post codes and 14% from Northamptonshire post codes<sup>1</sup>. The membership of the Joint Committee will therefore be ten Councillors, consisting of eight from Oxfordshire, one from Northamptonshire and one from Warwickshire.
13. Appointments by each authority to the Joint Committee will reflect the political balance of that authority.
14. The quorum for meetings will be five members, comprising at least one member from either Northamptonshire or Warwickshire.

### **Committee support**

15. The work of the Joint HOSC will require support in terms of overall co-ordination, setting up and clerking of meetings and underpinning policy support and administrative arrangements.
16. Meetings of the committee are to be held near to the Horton General Hospital and associated administrative support and costs to be borne by Oxfordshire County Council.
17. Should a press statement or press release need to be made by the Joint Health Overview and Scrutiny Committee, this will be drafted by Oxfordshire County Council on behalf of the Committee and will be agreed by the Chairman.

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<sup>1</sup> Figures contained within OUH Board report from 31<sup>st</sup> August 2016: <http://www.ouh.nhs.uk/about/trust-board/2016/august/documents/ContingencyPlanforMaternityandNeonatalServicesv19Final.pdf>