

## Divisions Affected -

# OXFORDSHIRE JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE 9 JUNE 2022

## Report by DIRECTOR OF LAW AND GOVERNANCE

### RECOMMENDATION

The Committee is **RECOMMENDED** to:-

- a) Consider the briefing and its implications for the Joint Health Overview and Scrutiny Committee;
- b) Note that further guidance is expected from the Department of Health and Social Care which should clarify the future role of health scrutiny.

### Executive Summary

1. Further to the passage of the Health and Care Act 2022, changes to the role of health scrutiny have been made and this is presented within the briefing enclosed by the Centre for Governance and Scrutiny (CfGS) at **Appendix 1**.

### Current Powers

2. The existing and explicit powers of health scrutiny are contained within the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Following the passage of the Health and Care Act 2022, it is expected that the roles and functions of health scrutiny will change.

### Future Change

3. It is not entirely clear at this stage what the totality of these changes are, but the CfGS are advising that Health Overview and Scrutiny Committees (HOSCs) should expect to see the removal of the powers of referral to the Secretary of State. This is to be replaced by an obligation on the Secretary of State (SoS) to consult. It is expected that this will still provide a HOSC with an opportunity to directly influence the SoS's decision but removes an element of the HOSCs ability to be proactive.

4. It is reasonable to assume that the Committee would be disappointed with this change, especially in the absence of clarity as to how HOSCs will be involved in the Secretary of State's new power.
5. Further information on the content and speed of the proposed statutory guidance is being sought from the CfGS by the Health Scrutiny Officer.

### **Next Steps**

6. The Committee should await further information from the CfGS before agreeing next steps;
7. That the changes within the statutory guidance be reflected within any updated health scrutiny protocols.

### **Corporate Policies and Priorities**

8. It is a Council priority to strengthen the Overview and Scrutiny function.

### **Financial Implications**

9. None identified.

Comments checked by:  
Lorna Baxter, Director of Finance.

### **Legal Implications**

10. It will be important that advice from the Centre for Governance and Scrutiny and the Local Government Association on the implications of the Health and Care Act 2022 is kept under review over the next few months along with regulations and statutory guidance to ensure that the Committee continues to discharge its duties correctly. Article 8 of OCC's Constitution will also need updating to reflect the changing role of the Committee.

Comments checked by:

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### **Staff Implications**

11. None immediately arising from this report.

## **Equality & Inclusion Implications**

12. None immediately arising from this report.

## **Sustainability Implications**

13. None immediately arising from this report.

## **Risk Management**

14. The risk is that this is a perceived reduction in the 'hard' powers that Health and Overview Scrutiny Committees possess. This could lead to a loss of a key feature of local accountability for health service organisations.

## **Consultations**

15. It would appear that no consultation with the Oxfordshire Joint Health Scrutiny Committee has been undertaken. The CfGS, as identified in the briefing, has been closely involved in the legislative process and has consistency advocated for the preservation and where possible the enhancement of HOSC powers.

Anita Bradley  
Director of Law and Governance

Annex: Centre for Governance and Scrutiny – Health and Care Act 2022

Background papers: None

Other Documents: None

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