

## **Joint Health Overview and Scrutiny Committee 23 September 2021 Report of the Chair**

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This report provides an update on issues that have arisen since the September meeting of JHOSC and recommendations relating to progressing the development of the committee; ICS and BOB, and important correspondence to the committee that will need consideration.

This is a lengthy report and my apologies that it was not circulated with the agenda. This was due to considerations detailed in this report and also the lack of expected information in some of the updates to the committee.

### **Health Scrutiny officer support for the Committee**

The committee agreed my recommendation in September that the committee be supported by a dedicated health scrutiny officer.

The lack of a dedicated health scrutiny officer has been challenging for me since I became Chair in June. Two officers experienced in health scrutiny over many years resigned in January 2021. An officer was recruited as part of Corporate Services and the Public health team with work primarily in public health.

One of the purposes of the Constitution is that no one will review or scrutinise a decision in which they are directly involved.

It is unfortunate that at a time of a crisis in health and care and increasing complexity because of the most significant proposals for reform of health and care since 2012 that I have had to invest a lot of time on internal matters relating to the committee. The public and non-elected members may not be aware that the new administration is working with a budget set by the previous administration and because of funding constraints on local authorities it is challenging to make changes mid-year.

I am pleased to report that a health scrutiny officer is to start shortly. As any support for the Chair of the committee since February has been shared across Colm O'Caomhanaigh, Stephen Fairclough (Corporate Services – Public Health) and since August Jodie Townsend (providing consultancy across three new committees and also providing support to JHOSC),

The appointment of a health scrutiny officer is an opportunity to provide support for the Chair and for the committee to advance the work programme and develop the committee. It would be helpful if all committee members could action September's recommendation by emailing me a photo and one paragraph of a biography including any experience in health scrutiny; health and care (professional and lived experience). This will be helpful in considering JHOSC recommendations for members of BOB JHOSC (below).

There is some urgency to the new protocol between the committee and health partners as the 2018 protocol has not been followed for some time.

## **Governance of the JHOSC**

JHOSC like Audit and Governance are independent statutory committees of the Council. JHOSC has wide responsibilities including those from the Francis Committee on patient safety. At a time of crisis in health and care it is vital that there is absolute clarity in the governance as well as effective operations of the committee.

It is very concerning that there has not been any meaningful update or opportunity of this committee for engagement on ICS reforms or ICS plans or any engagement on the BOB JHOSC committee with only four months to go before April 2022.

There have also been some unintended consequences of the creation of three new scrutiny committees. The three new non-statutory committees do not have standing orders yet, hence a new approach of a shared approach and structure. JHOSC is an existing committee with Standing Orders and there is an unnecessary risk at a time of great demand on the committee of lack of clarity. The inclusion of the Work Programme for the new Place Overview Scrutiny Committee on agenda item 12 of our JHOSC agenda and a recent news item on scrutiny which referred to the `health` committee as one of four `new` committees of the council are two minor illustrations of unintended consequences for an existing committee of the creation of new ones.

The new Health and Care Bill places a duty on the ICS Board to exercise its functions effectively, efficiently, and economically. There is the opportunity now with the appointment of a health scrutiny officer as the main point of contact for the Chair in between meetings and with strengthened communication processes that both Chair and the Committee can be properly supported. This approach was welcomed by members of the committee at the virtual meeting to consider the work programme.

### **Recommendation 1**

**An agenda item for the next virtual meeting to review the new approach with view to building on the progress that has been made and to strengthen the implementation of the existing Constitution and Standing Orders and existing protocols (e.g. set up of working groups) of the JHOSC; and provide a steer to the Chair in relation to any related agenda item on Audit and Governance and/or the Cabinet.**

### **Virtual meetings to progress the development of the committee**

The committee met informally virtually since the September JHOSC. A contribution from Julie Maberley (minutes) and final contributions from members invited at the September meeting were circulated in advance which were welcomed by the committee.

The online meeting of JHOSC members welcomed the introduction of an informal session for the committee to enable it to support the Chair in between formal meetings with member views; consideration of draft proposals by the Chair (in liaison with officers) in support of the work programme of the committee.

Whilst as Chair I can under standing orders liaise with officers regarding any new items proposed to the committee it is important that the focus is on planning and preparations

for the items on the proposed existing work programme which has had extensive input from members and a wide range of partners.

There was support for a JHOSC scrutiny hub and for the use of virtual non-decision meetings to allow the committee to discuss issues.

## **Recommendation 2**

**A virtual be held within four weeks of the JHOSC to prepare scrutiny for the next meeting; to build on the introduction of new agenda items by a steer on the list of information the committee would like; to consider design of JHOSC Dashboard for the Waiting lists and access to services agenda item to liaise with partners in the preparation of papers for this committee.**

## **Work programme**

I have led the committee on creating a Work Programme for the Joint Health and Overview Scrutiny Committee. I have liaised with some of system partners already with view to support for the JHOSC Committee work programme which is a change of approach. The committee has a new report analysing data on elective waiting lists for Agenda item 9. I have liaised on support from some of the system partners already on a JHOSC Dashboard.

The committee will also want to gather other intelligence across the Oxfordshire system on non-elective waiting lists and on closed services, alternative providers and waiting lists and access across the whole Oxfordshire system so as to inform it's work programme for 2022/2021.

## **Care Homes Report**

I met with Stephen Chandler on the Care Homes Report by Cllr Paul Barrow and liaised with both with recommendations included in Agenda item 8 b.

## **JHOSC communications**

I have written a draft news item on the JHOSC committee similar to the news item on the Place committee.

## **Health and Care Bill**

The Health and Care Bill is at second reading this week [newbook.book \(parliament.uk\)](https://www.newbook.book.parliament.uk)

The County Council agreed my motion on the Bill this month and Councillor Leffman and myself co-signed a letter to Oxfordshire MPs seeking their support. See appendix.

Other Councils across the country have raised concerns about the impact on patient care. An integrated care board must arrange for the provision of the following to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility but reasonable requirements are not defined.

## ICS update

We anticipate that the new Buckinghamshire, Oxfordshire, and Berkshire West (BOB) Integrated Care System (ICS) will be established on a statutory footing by April 2022. NHS Health and Care Bill establishes ICS Boards by statutory order. There is a duty under the bill for the ICS Board to publish a constitution. The Health and Care Bill will take effect in April 2022 if passed. I have researched a mature ICS which won an HSJ award last week West Yorkshire and Harrogate Partnership :: Integrated Care Systems legislation (wypartnership.co.uk). This ICS has been engaging on their draft constitution. It has an existing detailed Memorandum of understanding which cover governance of a partnership of non-democratic and democratic partners with visual governance maps including health scrutiny committees and including a visual map of the governance structure.

Attached in the appendix is a letter to JHOSC from Keep Our NHS Public who have asked whether there is a 'shadow' governance structure ahead of the April 2022 abolition of CCGs.

Agenda item 6 Oxfordshire Clinical Commissioning Update was expected to be an update on the Integrated Care System. The CCG is responsible for producing a Constitution but there is no update on whether there is a draft and there is no information on whether there are informal governance arrangements in place in the lead up to April 2022.

The Health and Care Bill will take effect in April 2022 if passed. Some ICS are offering engagement on their draft constitution and there are detailed Memorandum of understandings which cover governance of a partnership of non-democratic and democratic partners with visual governance maps including health scrutiny committees (e.g. West Yorkshire and Harrogate Partnership :: Integrated Care Systems legislation (wypartnership.co.uk) HSJ ICS award 2021.

The appointment of the designate Chair of the NHS to take up the role in April suggests that practically there may not be an appointment of the Chair and Board of the Integrated Care Partnership until after April with government guidance indicating that there may not be formal structures in place as late as 2022 Frequently asked questions (FAQs) on the Integrated Care Partnership engagement document - GOV.UK (www.gov.uk). For updated September 2021 guidance NHS England » Integrated Care Systems: Guidance; <https://local.gov.uk/publications/thriving-places-guidance-development-place-based-partnerships-part-statutory-integrated-care-partnership-icp-engagement-document-integrated-care-system-ics-implementation>

At a special meeting of JHOSC on 12<sup>th</sup> March 2021 I and many members of the former JHOSC committee expressed serious concern about the lack of clarity in governance and public accountability surrounding decision structures and that detail was not known. There have been references to a number of new groups that have been meeting including a senior leader's group and a new Health Inequalities Board.

On a BOB related matter regarding an outstanding question to the CEO on the CCG response to the JHOSC Taskforce on the OX12 Pilot, a letter from the CEO of BOB is

attached in the appendix which arrived on the day of the last committee. The original reports from OX12 were also attached. I have written to welcome Javed Khan, Chair designate of the ICS Board and to seek a meeting with a view to discussing the development of a new protocol.

### **Recommendation 3**

**The committee may wish to consider the letter from the CEO of BOB in relation to items on the agenda which relate to this (public engagement on the community strategy) and as a case study in planning for the development of a revised JHOSC external protocol with system partners.**

### **BOB HOSC**

As discussed at previous meetings of the Oxfordshire Joint HOSC a new scrutiny committee covering the BOB geography (the “BOB HOSC”) will therefore need to be ready to scrutinise such matters as might arise at that level.

At a special meeting of JHOSC on 12<sup>th</sup> March 2021 the former Chair accepted that members of that committee were being asked to make `a leap of faith` in recommending that the JHOSC delegate some matters (to be identified through a `toolkit`) to a new BOB JHOSC. A majority on the committee and a majority of the County Council approved a delegation of authority. There was an agreement however that there would be a review after 12 months.

The Terms of Reference (ToR) for the new BOB HOSC have been approved by the Councils of all 5 BOB local authorities (no amendments to the Oxfordshire ToR).

BOB councils are at different stages with the selection of members to represent them on the BOB HOSC once it is established. Reading and West Berkshire selected their intended representatives (2 members each) at meetings earlier in the Summer. Wokingham (2 members) and Buckinghamshire (6 members) are in the process of identifying their intended representatives. I have been advised that members appointed to date have been from the JHOSC of the Councils.

Oxfordshire County Council will consider its process for the identification of its 7 members in the near future. The preparation of the case and terms of reference for the BOB JHOSC were done in consultation with the former Chair and Deputy Chair of the JHOSC. Given the expectations of members of the committee in recommending delegation of powers to a separate BOB JHOSC that the function of the JHOSC would not be significantly diminished as a result of the delegation I will be recommending that the process for the appointment to the BOB JHOSC is in accordance with the process for County Council appointments to all committees and taking account of the recommendations of the JHOSC committee.

The approved BOB HOSC Terms of Reference refer to a “toolkit” as follows: “The process for determining the appropriate level of scrutiny – ie. System or Place/Locality/Neighbourhood will be in accordance with an agreed toolkit which will set out the process for initiating early dialogue between ICS Leads and the Members

of the Joint HOSC. All constituent authorities will be notified of the outcome of those discussions.”

Many members of the JHOSC are experienced in the use of the well-established toolkit which both health partners and HOSC have been using to determine whether or not a matter represents a substantial change. This offers a starting point for the emerging BOB HOSC toolkit but the critical aspect will be the issues discussed by the JHOSC committee on the 12<sup>th</sup> March 2021 about what constitute the 20% of issues that the committee was advised would be BOB JHOSC rather than JHOSC. Bearing in mind that when the committee by majority agreed to recommend delegation of power to the full Council this was after reassurances and that the JHOSC would always retain a referral power. The toolkit will need to enable HOSC officers and members to understand matters such as the geographic extent of a proposal and the patient footprint impacted, and other factors which support the necessary decision.

Other elements which the toolkit will either need to set out or reflect include the role of the BOB HOSC secretariat in supporting decision-making, the process for resolution of any disagreements, and how to proceed if there is no business to scrutinise. Officers will also need to ensure that all elements of the toolkit are consistent with the Standing Orders of each BOB council and that the toolkit remains under review to ensure that it meets the needs of each council (individually and collectively and any new protocol agreed with the ICS or health partners.

Many members of the former committee expected to view a toolkit before the County Council agreed the delegation of power and it is unfortunate that we do not have a draft toolkit yet. I will be working with officers with view to the draft toolkit being circulated soon for members’ views. While the relevant legislation for the new ICS – and therefore relevant ICS structures, decision-making processes etc. – has yet to be finalised any toolkit will remain tentative. However, while we must maintain flexibility of its final form and content this does not prevent the toolkit’s development.

#### **Recommendation 4**

**That HOSC recommend to Council that the process for the appointment to the BOB JHOSC is in accordance with the process for County Council appointments to all committees informed by the advice of the JHOSC regarding the importance of membership from this committee.**

#### **Closures of Services or Alternative Provider Contracts**

In the future a JHOSC Dashboard should help the committee keep track of closed or alternative provider services. I have received two letters but am also aware that in relation to maternity beds at Wantage and Cotswolds there is no update from the CCG about when these will reopen. These were closed for workforce issues but we were told would have reopened. There is no more information in the CCG update or the community strategy. The committee may wish to ask for an update under the waiting lists and access to services or the community strategy.

#### **Ophthalmology (cataract surgery), ENT and maxillofacial outpatient clinics (OUH)**

Letter from Dr Rajan Nijjar, Chair Oxfordshire LMC attached.

OUH have been advised that this letter has been received and may be considered as part of the agenda item on waiting lists and access to services where the committee may wish to consider the recent referral to the CQC. The OUH agreed to update the committee after a Board meeting immediately following JHOSC but that update was not received. We have been advised there will be a verbal update under the agenda item on waiting lists and access to services.

### **Pharmacy – Central Oxford**

Letter from Cllr Howson requesting JHOSC look into and refusal of NHS licensing of a second licence for central Oxford with view to returning NHS users to the former position before the pharmacy in Boswells was lost. The committee may wish to contact the licensing agency with the letter from Cllr Howson and request there is a process for review or appeal.

**Update on the Audiology Service** (communication from member of the public and a member of JHOSC)

The Committee has written twice since March 2021 to request a response from the CCG. At the September meeting the reason that there is no significant change in service arising is that this service was a varied one and not commissioned via the GMS contract.

I was briefed that there was a private meeting in October. JHOSC was not invited to observe that meeting.

A letter is attached on behalf of Keep our NHS Public, Oxfordshire requesting Oxfordshire JHOSC now to consider referring the issue of the new community audiology Any Qualified Provider (AQP) contract to the Secretary of State for Health on several grounds.

### **Recommendation 5**

- (i) The committee notes that the CCG did not respond to requests from the committee and that the CCG took the view that because it was not a service explicitly contracted in the GP contract it was a national matter. The committee notes the Health Watch report that the public experiences a loss of service regardless of whether it is explicitly in the GP contract or was provided by the GP.**
- (ii) The committee seeks advice/confirmation from the Centre for Scrutiny that contracts regarding the whole or part of the ICS area that impact Oxfordshire residents and that where a service was provided but not explicitly commissioned it can still be scrutinised by the JHOSC.**
- (iii) The Committee advises the CCG and ICS that if they invite a member of JHOSC to a private meeting with stakeholders this must be done through the committee as representation of the committee in between meetings needs to be agreed by officers and the Chair.**

## **The Horton JHOSC (for noting)**

The former Chair of the JHOSC included updates on the Horton HOSC in the Chair's report because the Horton Master plan and the Horton JHOSC does have impacts across Oxfordshire and with the JHOSC.

Further to my request in July that a meeting of the Horton JHOSC be called so that a Chair and Vice Chair could be appointed and business proceed, the meeting called on 11<sup>th</sup> October was inquorate because the member from the Warwickshire County Council appointed on 1<sup>st</sup> July gave her apologies and Northamptonshire County Council was only appointing a committee member on 2<sup>nd</sup> December.

Necessary business since July has included consideration of a letter from a minister (7<sup>th</sup> October); consideration of support to a bid from the OUH; scrutiny of the Horton masterplan and a statement by the CCG.

I called again for an urgent meeting and this was supported by 5 of the members of the committee and the independent member.

A committee of Oxfordshire County Council has not been able to meet for four months because of current constitutional arrangements which depend on neighbouring councils appointing, attending, or sending a substitute to a meeting in a timely way so a committee can function.

### **Attached documents**

JHOSC Work programme (for agenda item 12)

Health and Care Bill - Letter to MPs

Letter from James Kent

Letter from KONP – ICS

Letter from KONP – Audiology Contract

Letter from Local Medical Committee

Letter from Cllr Howson – loss of 2<sup>nd</sup> licence Pharmacy Central Oxford.