

Proposed Changes to the Health Overview and Scrutiny Committee

The passing of the Health and Care Act 2022 has significantly altered the health landscape. These changes have rendered, part 6. 1B of the Constitution (the Oxfordshire Joint Health Overview and Scrutiny Committee Constitution, Operating Procedures and Protocols) out of date, requiring amendments to reflect the new legislative landscape.

The most notable changes for Health Overview and Scrutiny Committees are:

- The abolition of Clinical Commissioning Groups (CCGs) and the introduction of Integrated Care Boards (ICBs)
- The removal of an automatic right to have significant changes made by health providers be considered by the Secretary of State (call-ins), and replacement with the ability to request intervention.
- The creation of regional health scrutiny bodies to scrutinise Integrated Care Board proposals. This is of particular relevance now because if an Oxfordshire Councillor is appointed at the next meeting to be Chair of BOB HOSC, Oxfordshire County Council will be the responsible authority for the next two years.

In addition to these changes, there are minor house-keeping matters

Issue	Rationale	Current Wording	Proposed Wording (tracked)
HOSC (Health Overview and Scrutiny Committee) Deputy Chairs	It is custom and practice at the HOSC for the Deputy Chair position to be offered to a different district/city council on a rolling basis. This is not stated in the Constitution. It is recommended this is formalised within the Constitution.	Part 61B (8) The Deputy Chair of the Joint Committee shall be drawn from the District/City Councillors members of on the Committee and elected on an annual basis immediately following the election of the Chair.	The Deputy Chair of the Joint Committee shall be drawn from the District/City Councilmembers on the Committee and elected on an annual basis immediately following the election of the Chair. The position of Deputy Chair will be offered to each District/City Council representative on a rolling basis in the following order: Oxford City Council, Vale of the White Horse District Council, West Oxfordshire District Council, South Oxfordshire District Council, Cherwell District Council.

ANNEX 1

			Should a member be offered the position of Deputy Chair and decline, the representative of the next Council on the list will be offered the position.
Committee membership	As members have been asked to do elsewhere, it is proposed to remove the list of members for Health Scrutiny Committees and replace them with a link to the website.		Remove section from 'Joint Committees Oxfordshire Joint Health Overview & Scrutiny Committee (7)' onwards and replace with links to the memberships of the relevant committees.

ANNEX 1

<p>Duty of NHS Bodies or Health Service Providers to Consult on Substantial Developments or Variations in Provision of Service</p>	<p>Part 6.1B 18, relating to the duty of NHS of NHS Bodies or Health Service Providers to Consult on Substantial Developments or Variations in Provision of Service is the most heavily impacted by the changes of the Health and Care Act. It is recommended that a fuller explanation of the new position is adopted than can be achieved through the Monitoring Officer's minimalist changes.</p>	<p>See Part 6.1B (18) – Duty of NHS Bodies to Consult set out below</p>	<p>Tracked changes set out below to reflect the additional explanation in light of legislative changes recommended</p> <p>Part 6.1B (18) – Duty of NHS Bodies to Consult below</p>
<p>Buckinghamshire, Oxfordshire and Berkshire West Joint Health Overview and Scrutiny Committee (BOB HOSC)</p>	<p>Under the terms of reference agreed by the constituent councils of the Buckinghamshire, Oxfordshire and Berkshire West Joint Health Overview and Scrutiny Committee, responsibility for administering its meetings falls to the Council from whom the Chair comes. Should members of the BOB HOSC appoint the current vice-Chair (or another</p>		<p>Create a new section 6.1C called 'Buckinghamshire, Oxfordshire and Berkshire West Joint Health Overview and Scrutiny Terms of Reference' and include the agreed terms of reference for this committee (see below for details).</p>

	<p>Oxfordshire councillor) to become Chair in February 2025, responsibility for these meetings will fall to Oxfordshire County Council, likely for two years. It is recommended, therefore, that the agreed terms of reference for the BOB HOSC are included within the Council's constitution.</p>		
--	---	--	--

Part 6.1B (18) – Duty of NHS Bodies to Consult

Under Regulation 23(1) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 an NHS body or health service provider must consult the Committee, where it has under consideration any proposal for a substantial development of the Health Service or a substantial variation in the provision of such service. This will not apply where:

- a) it is a proposal to establish or dissolve or vary the constitution of the ICB or establish or dissolve an NHS Trust unless the proposal involves a substantial development or variation.
- b) proposals are part of a trust's special administrator's report or draft report (i.e. when a trust has financial difficulties and is being run by an administration put in place by the Secretary of State). These are required to be the subject of a separate 30-day community – wide consultation.
- c) the relevant NHS body or health service commissioner believes that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. In such cases the NHS body or health service provider must notify the local authority that consultation will not take place and the reason for this.

The NHS body or health service provider must inform the Committee when a consultation is happening, the timeframe of a decision and, following a decision, whether to proceed with the proposal. The Committee may comment on the proposals by a date set by the NHS body or health service provider.

Under Regulation 26(2) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny), where an NHS or health service provides, or arranges for the provision of, services to persons residing within the area of several local authorities, its duty under paragraph (1) will be satisfied if it provides information to the joint overview and scrutiny committee of those authorities. The Buckinghamshire, Oxfordshire, and Berkshire West Joint Health Overview and Scrutiny Committee qualifies as the joint overview and scrutiny committee to be informed when a variation in services will affect residents across the Buckinghamshire, Oxfordshire, and Berkshire West Geography as a collective.

The Committee may report to the Secretary of State in writing to request that the Secretary of State call the proposal in where it is not satisfied that:

- d) consultation with the local authority on any proposal for a substantial change or development has been adequate in relation to content or time allowed
- e) that the proposal would be in the interests of the health service in Oxfordshire
- f) a decision has been taken without consultation and it is not satisfied that the reasons given for not carrying out consultation are adequate

The Committee will, when making any decision to request a call-in by the Secretary of State, give consideration to current guidance on the process and requirements.

BOB HOSC Terms of Reference

Joint Health Overview and Scrutiny Committee (Buckinghamshire, Oxfordshire, Reading, West Berkshire, Wokingham)
Terms of Reference

Purpose

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 (according to patient flow), the local authorities are required to appoint a Joint Health Overview and Scrutiny Committee (JHOSC) for the purposes of the consultation.
2. The NHS Long Term Plan (published at the beginning of 2019) sets out the vision and ambition for the NHS for the next 10 years. It states - "Every Integrated Care System will need streamlined commissioning arrangements to enable a single set of commissioning decisions at system level." The purpose of the JHOSC would be to hold to account and challenge these commissioning decisions at system level. This function would be new and a different part of local health scrutiny arrangements. The powers and duties of health scrutiny would remain unchanged at Place, Locality and Neighbourhood level (see definitions below). The creation of a JHOSC to scrutinise system level decisions would strengthen existing scrutiny arrangements.
3. These terms of reference set out the arrangements for Buckinghamshire Council, Oxfordshire County Council, Reading Borough Council, West Berkshire Council, Wokingham Borough Council, to operate a JHOSC in line with the provisions set out in the legislation and guidance and to allow it to operate as a mandatory committee.

Terms of Reference

4. The new JHOSC 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 Wellbeing Boards and Health Scrutiny) Regulations 2013 to appoint a joint committee for the purposes of providing independent scrutiny to activities delivered at a system level (as detailed below) by the Buckinghamshire, Oxfordshire, and Berkshire West Integrated Care System.

5. The Kings Fund published a report in April 2020 “Integrated Care Systems explained: making sense of systems, places and neighbourhoods” which says that NHS England and NHS Improvement has adopted the terminology used in some systems to describe a three tiered model – System, Place and Neighbourhood:
 - System - typically covering a population of 13 million people. Key functions include setting and leading overall strategy, maintaining collective resources and performance, identifying and sharing best practice to reduce unwarranted variations in care, and leading changes that benefit from working at a larger scale such as digital, estates and workforce transformation.
 - Place a town or district within an ICS, typically covering a population of 250500,000. This is where the majority of changes to clinical services will be designed and delivered and where population health management will be used to target intervention to particular groups. At this level, providers may work together to join up their services through alliances and more formal contractual arrangements.
 - Neighbourhood – a small area, typically covering a population of 30-50,000 where groups of GPs and community-based services work together to deliver coordinated, proactive care and support, particularly for groups and individuals with the most complex needs. Primary Care Networks and multi-disciplinary community teams form at this level.
6. In addition, a fourth Locality tier operates below the ‘Place’ tier, but only within Berkshire West. These Localities coincide with the individual local authorities of Reading Borough Council, West Berkshire Council and Wokingham Borough Council and reflect the geography of their Health and Wellbeing Boards and Public Health, Adult Services and Children’s Services functions. Joint working with Health Services also takes place at this level, e.g. through Locality Integration Boards.
7. Activities at Place, Locality and Neighbourhood would be scrutinised by the relevant local authority through their existing health scrutiny arrangements.
8. The purpose of the mandatory JHOSC across Buckinghamshire, Oxfordshire, Reading, West Berkshire, Wokingham is to:
 - a. make comments on the proposal consulted on
 - b. require the provision of information about the proposal
 - c. gather evidence from key stakeholders, including members of the public
 - d.require the member or employee of the relevant health service to attend before it to answer questions in connection with the consultation.
 - e. Refer to the Secretary of State only on 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)
 - 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.
9. Notwithstanding point (e) above, Member authorities have the right to refer an issue to the Department of Health if the joint health scrutiny committee does not collectively agree to refer an issue.
10. With the exception of those matters referred to in paragraph [3] above responsibility for all other health scrutiny functions and activities remain with the respective local authority Health Scrutiny Committees.
11. The process for determining the appropriate level of scrutiny – ie. System or Place/Locality/Neighbourhood will be in agreement with an agreed toolkit which will set out the process for initiating early dialogue between ICS Leads and Members of the JHOSC. All constituent authorities will be notified of the outcome of these discussions.
12. 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.

Governance

13. Meetings of the JHOSC will be conducted under the Standing Orders of the Local Authority hosting and providing democratic services support and subject to these terms of reference.

Frequency of meetings

14. The JHOSC will meet at least twice a year with the Integrated Care System Leads to ensure oversight of key priorities and deliverables at system level.

Host authority

15. The JHOSC would be hosted by one of the named authorities. The role of host authority would be undertaken by the chairing authority for the same time period [24 months].

Membership

16. Membership of the JHOSC will be appointed by Buckinghamshire, Oxfordshire, Reading, West Berkshire, Wokingham that have responsibility for discharging health scrutiny functions.
17. Appointments to the JHOSC have regard to the proportion of patient flow. The Joint Committee will therefore have 19 members, consisting of 6 from Buckinghamshire, 7 from Oxfordshire, 2 from Reading, 2 from West Berkshire, 2 from Wokingham.
18. Appointments by each authority to the JHOSC will reflect the political balance of that authority.
19. The quorum for meetings will be 6 voting members, comprising at least one member from each authority. Member substitutes from each authority will be accepted.
20. The JHOSC shall reserve the right to consider the appointment of additional temporary coopted members in order to bring specialist knowledge onto the committee to inform specific work streams or agenda items. Any coopted member appointed will not have a vote.
21. The five Healthwatch organisations shall be recognised as key stakeholders and a standing item will be included on the JHOSC agenda to allow the organisations to report back on patient and public views from across the ICS.

Chair & Vice Chair.

22. The Chair of the JHOSC shall be drawn from the members of it and will normally be filled by the member whose authority is hosting the Committee for a period of 24 months.
23. The Vice Chair of the JHOSC shall be drawn from members on the Committee and elected every 24 months.

Task & Finish Groups

24. The Committee may appoint such Working Groups of their members as they may determine to undertake and report back to the Committee on specified investigations or reviews as set out in the work programme. Appointments to such Working Groups will be made by the Committee, ensuring political and geographical balance as far as possible. Such panels will exist for a fixed period, on the expiry of which they shall cease to exist.

Committee support

25. The work of the JHOSC will require support in terms of overall coordination, setting up and clerking of meetings and underpinning policy support and administrative arrangements.

26. Meetings of the committee are to be arranged and held by the host authority.

27. Should a press statement or press release need to be made by the JHOSC, this will be approved by all authorities before being signed off by the Chair.