

HEALTH OVERVIEW AND SCRUTINY COMMITTEE

26 SEPTEMBER 2016

SCRUTINY APPROACH: CONSULTATION PLANS FOR THE FUTURE OF ACUTE HOSPITAL SERVICES IN WORCESTERSHIRE

Summary

1. The Health Overview and Scrutiny Committee (HOSC) is asked to agree the approach to scrutiny of public consultation plans for the Future of Acute Hospital Services in Worcestershire.

Background

2. HOSC members will be aware that the Future of Acute Hospital Services in Worcestershire (FoAHSW) programme, initiated in 2012, is now in its final stages. Agenda item 6 'Future of Acute Hospital Services in Worcestershire – Update' sets out the aims and background to the review of hospital services, which have been subject to numerous public HOSC discussions.
3. The Pre Consultation Business Case is due to be submitted to NHS England for assurance on 5 October 2016. Prior to this, it will also need to be approved by the three Clinical Commissioning Group (CCG) Governing Bodies at their meetings at the end of September/beginning of October. NHS England will convene a panel on 19 October to review the Business Case. The Programme is aiming to start public consultation by the end of November 2016.
4. As part of the final NHS England assurance process, the consultation plan and document requires approval by Worcestershire's HOSC.

Scrutiny legislation

5. HOSC members will be aware that local authorities' health scrutiny function is a statutory function, and the NHS is required to consult on any proposed substantial developments or variations in the provision of the health service – subject to exceptions as set out in the 2013 Regulations, for example because of a risk to safety or welfare of patients or staff.¹
6. The 2014 guidance on scrutiny regulations covers joint health scrutiny – "Local authorities may appoint a discretionary joint health scrutiny committee (Regulation 30), to carry out all or specified health scrutiny functions, for example health scrutiny in relation to health issues that cross local authority boundaries.'

¹ The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

7. The guidance also states 'Regulation 30 also requires local authorities to appoint joint committees where a relevant NHS body or health service provider consults more than one local authority's health scrutiny function about substantial reconfiguration proposals (referred to as a mandatory joint health scrutiny committee).²

Consultation for the Future of Acute Hospital Services in Worcestershire

8. In the case of the Future of Acute Hospital Services in Worcestershire, the Programme Board has advised that the surrounding area clinical commissioning groups (Warwickshire, Solihull, Herefordshire and Birmingham) have been asked whether they would want to consult their local populations on the proposed changes, and are of the view that this is NOT a substantial change for their populations, and have therefore opted to be consulted *on* the proposals, rather than *to* consult.

9. The Programme Board has advised that projected numbers of patients who may access care elsewhere are very low, and are included in the Pre Consultation Business case.

10. The scrutiny officers contacted the surrounding area scrutiny committees to ascertain whether their HOSCs viewed the proposed model as representing a substantial change for their local population. Warwickshire and Solihull have confirmed that they do not view the proposed changes as substantial; Birmingham and Herefordshire have confirmed that they do and have requested that a joint committee be formed.

11. Advice has been sought from the Council's Statutory Scrutiny Officer and the Head of Legal Services – who both hold the view that the requirement to appoint a joint health committee is only triggered by the consultation by Health as the responsible person of more than 1 authority. If they do not so consult then the duty is not triggered. As Health have not consulted more than one authority, there is no requirement to have a Joint HOSC and it is therefore the discretion of this Committee as whether or not to have one.

12. Additionally, the HOSC Chair is keen that plans which predominantly affect Worcestershire residents and services should be scrutinized by Worcestershire HOSC members – whilst extending invitation to members of surrounding area HOSC members to attend if they so wish.

13. A joint health scrutiny committee would be made up of a small group of members from each relevant area, and would likely need to be politically balanced.

Legal, Financial, and HR Implications

14. Regulation 23 requires relevant NHS bodies and health service providers to consult a local authority about any proposal which they have “under consideration” for a substantial development of or variation in the provision of health services in the local authority’s area. “Substantial development” and “substantial variation” are not defined in the legislation – in general the approach adopted by Worcestershire

² 2014 Department of Health Local Authority Scrutiny Guidance

HOSC in has been to consider the potential impact on service users, service quality and sustainability, numbers affected and consultation plans.

15. Local authorities can refer a consultation to the Secretary of State if it considers:
- The consultation has been inadequate in relation to the content or the amount of time allowed.
 - The NHS body has given inadequate reasons where it has not consulted for reasons of urgency relating to the safety or welfare of patients or staff.
 - A proposal would not be in the interests of the health service in its area.

16. Where there are concerns about proposals for substantial developments or variation in health services (or reconfiguration as it is also known) local authorities and the local NHS should work together to attempt to resolve these locally if at all possible. If the decision is ultimately taken to formally refer the local NHS's reconfiguration proposals to the Secretary of State for Health, then this referral must be accompanied by an explanation of all steps taken locally to try to reach agreement in relation to those proposals.

Purpose of the meeting

17. The HOSC is asked to:
- consider and agree the proposed scrutiny approach, which has been reached in discussion with both the Council's Statutory Scrutiny Officer and the Head of Legal Services;
 - consider for approval, the public consultation plans for the future of acute hospital services in Worcestershire, as part of agenda item 6.

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are the background papers relating to the subject matter of this report:

- Department of Health Local Authority (Public Health, health and Wellbeing Boards and Health Scrutiny) Regulations 2013
<http://www.legislation.gov.uk/uksi/2013/218/contents/made>
- Department of Health Local Authority Health Scrutiny Guidance 2014
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324965/Local_authority_health_scrutiny.pdf
- Agenda of the Health Overview and Scrutiny Committee on 26 September 2016 – item 6 'Future of Acute Hospital Services in Worcestershire – Update'
<http://worcestershire.moderngov.co.uk/ieListDocuments.aspx?CId=141&MId=1640&Ver=4>