

By: Paul Carter, Leader of the Council

To: County Council – 14 September 2006

Subject: Overview and Scrutiny of the NHS – Health and Social Care Act 2001 – Joint Committee with Medway Council

Introduction

1. (1) The Health and Social Care Act 2001 introduced the power for County Councils (and other local social services authorities) to review and scrutinise matters relating to the health service in their areas.

(2) On 17 July 2003 the Secretary of State for Health issued a direction under the Health and Social Care Act 2001. The direction was concerned with the way in which local authorities that have the power to scrutinise the NHS are consulted by colleagues in the NHS on proposals for substantial development or variation in service. Substantial development or variation is not defined. A copy of the direction is attached as **Appendix 1**.

Directions to local authorities (Overview and Scrutiny Committees Health Scrutiny Functions)

2. (1) The direction requires that when an NHS body consults more than one local authority Overview and Scrutiny Committee on a substantial development or variation to service, those authorities must establish a Joint Overview and Scrutiny Committee to hear evidence and respond to the consultation. Only the Joint Committee may respond to the consultation, require NHS bodies to provide information or require NHS officers to attend before it.

Joint Committee arrangements between Kent County Council and Medway Council

3. (1) At this Council's meeting on 25 March 2004, it agreed to the establishment of the Kent and Medway NHS Joint Overview and Scrutiny Committee, comprising 12 Members, seven from Kent (4:2:1) and 5 from Medway (3:1:1). The terms of reference and rules are set out in **Appendix 2**.

(2) The Council also agreed that following the elections of the County Council in May 2005, the structure, terms of reference and rules of the Joint Committee should be reviewed.

(3) Medway Council has indicated that, in accordance with its proportionality arrangements, it would wish to reduce the number serving on the Joint Committee from their Council to 4 (2:1:1).

(4) In accordance with this Council's proportionality arrangements, it has been agreed with Medway Council that KCC's membership of the Joint

Committee should increase to 8 (5:2:1). The overall number of the Committee would remain the same at 12 Members.

(5) For the time being there is no need to revise the terms of reference or rules for the operation of the Joint Committee. Since the initial report was submitted to the Council on 25 March 2004, **Appendix 3**, there have been no occasions when the Joint Committee has been invoked.

(6) However, this may well change in the forthcoming months as a result of the changes to the Strategic Health Authorities, Ambulance Services and Primary Care Trusts. Michael Ridgwell has recently been appointed Project Director for a review of the whole health system across Kent and Medway. The NHS Overview and Scrutiny Committees of both Medway and Kent, or this Joint Committee, will need to play a pivotal role in ensuring that the health services across Kent and Medway are appropriate.

Recommendations

4. The County Council is asked to:-
- (a) endorse the revised proportionality arrangements for the Joint Committee whilst keeping the overall total at 12 Members, 8 from Kent (5:2:1) and 4 from Medway (2:1:1) with terms of reference and rules as set out in Appendix 2 to this report.
 - (b) continue to review the terms of reference and rules following the reorganisation of the health organisations across Kent and Medway.

Paul Carter
Leader of the Council

Background Information: *Include ALL background information taken into account in preparing the report. (This does not include previous Committee Reports)*

HEALTH AND SOCIAL CARE ACT 2001

DIRECTIONS TO LOCAL AUTHORITIES (OVERVIEW AND SCRUTINY COMMITTEES, HEALTH SCRUTINY FUNCTIONS)

The Secretary of State for Health in exercise of the powers conferred on him by section 8 (4) of the Health and Social Care Act 2001 and Regulation 10 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Function) Regulations 2002 and of all other powers enabling him in that behalf hereby gives the following directions:-

Application, Commencement and Interpretation

1. (1) These Directions are given to local authorities in England.

(2) These Directions shall come into force in 17 April 2003.

(3) In these Directions –

“the Act” means the Health and Social Care Act 2001;

“Joint Overview and Scrutiny Committee” has the meaning given in the Regulations;

“local authority” has the meaning given in the Regulations ;

“local NHS body” has the meaning given in the Regulations;

“Overview and Scrutiny Committee” means an Overview and Scrutiny Committee with functions under the Regulations;

“the Regulations” means the Local Authority (Overview and Scrutiny Committees Health and Scrutiny Functions) Regulations 2002

Consultation of Committees by local NHS Bodies

2. Where a local NHS body consults more than one Overview and Scrutiny Committee pursuant to Regulation 4 of the Regulations on any proposal it has under consideration for a substantial development of the health service or a substantial variation in the provision of such service, the local authorities of those Overview and Scrutiny Committees shall appoint a Joint Overview and Scrutiny Committee for the purposes of the consultation and only that Joint Overview and Scrutiny Committee may:-

(a) make comments on the proposal consulted on to the local NHS body under Regulation 4(4) of the Regulations;

(b) require the local NHS body to provide information about the proposal under Regulation 5 of the Regulations; or

- (c) require an officer of the local NHS body to attend before it under Regulation 6 of the Regulations to answer such questions as appear to it to be necessary for the discharge of its functions in connection with the consultation.

Signed on behalf of the Secretary of State for Health

Flora Goldhill Member of the Senior Civil Service

Date 17 July 2003 Department of Health

Kent and Medway NHS Joint Overview and Scrutiny Committee

Terms of Reference

1. To receive evidence in relation to consultations initiated by local NHS bodies regarding proposals for substantial development or variation of the health service which effect both Medway and a substantial part of Kent.
2. To make comments on behalf of the relevant overview and scrutiny committees of Medway Council and Kent County Council on any such proposals to the NHS body undertaking the consultation.
3. To undertake other scrutiny reviews of health services if requested to do so by the relevant overview and scrutiny committees of both Medway Council and Kent County Council.
4. To report on such other scrutiny reviews to the relevant overview and scrutiny committees of Medway Council and Kent County Council.

Rules

1. These rules apply to the joint committee and any sub-committee established by it.
2. The committee will appoint a chairman at its first meeting in each municipal year, and that chairman will normally be drawn in rotation from Kent County Council members and Medway Council members. Where a review is unfinished at the end of a Municipal Year, members may agree that the previous year's chairman (if still a member of the committee) may continue to preside over consideration of matters relating to that review.
3. If the joint committee cannot agree a single response to an NHS consultation then a minority response which is supported by the largest minority, but at least three members, may be prepared and submitted for consideration by the NHS body with the majority response. The names of those who dissent may, at a member's request, be recorded on the main response.
4. The response of the joint committee to a consultation will normally be submitted to the chair and spokespersons of the relevant overview and scrutiny committees of Kent County Council and Medway Council prior to its submission to the NHS body and at least ten working days before the closing date of the consultation.
5. Following receipt of the joint committee response by the chair and spokespersons of the relevant overview and scrutiny committees, either of those committees (or an appropriately empowered sub-committee thereof) may meet and resolve to inform their proper officer of views or comments they wish to have incorporated in the joint committee's response. If such a request is received by a proper officer before the closing date of the consultation,

those views or comments will be appended to the joint committee's response and that appendix will form part of the joint committee's response.

6. These rules will take precedence over the rules in the constituent authorities constitutions, which will otherwise apply to the joint committee. Where the rules of the constituent authorities' constitutions are in conflict the chairman's ruling will determine which applies.

By: County Secretary

To: County Council – 25 March 2004

Subject: **OVERVIEW AND SCRUTINY OF THE NHS – HEALTH AND SOCIAL CARE ACT 2001 – DIRECTIONS TO LOCAL AUTHORITIES (OVERVIEW AND SCRUTINY COMMITTEES, HEALTH SCRUTINY FUNCTIONS) ON PROTOCOLS FOR THE OPERATION OF OVERVIEW AND SCRUTINY OF THE NHS IN KENT**

Summary: To advise of the Department of Health Direction requiring the establishment of Joint Overview and Scrutiny Committees to consider NHS Development proposals covering more than one local authority. To seek the Committee's support for an approach to securing the Kent County Council's compliance with this direction which will be subject to the agreement of the County Council to seek delegated authority to agree the amendments to the protocols for the operation of Overview and Scrutiny of the NHS in Kent and to embed these revised protocols in the County Council's Constitution.

Classification: Unrestricted

Introduction

1. (1) The Health and Social Care Act 2001 introduced the power for County Councils (and other local social services authorities) to review and scrutinise matters relating to the health service in their areas.

(2) On 17 July 2003 the Secretary of State for Health issued a direction under the Health and Social Care Act 2001. The direction was concerned with the way in which local authorities that have the power to scrutinise the NHS are consulted by colleagues in the NHS on proposals for substantial development or variation in service. Substantial development or variation is not defined. A copy of the direction is attached as Appendix 1.

Directions to Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions)

2. (1) The direction requires that where an NHS body consults more than one local authority's Overview and Scrutiny Committee on a substantial development or variation to service, those authorities must establish a Joint Overview and Scrutiny Committee to hear evidence and respond to the consultation. Only the Joint Committee may respond to the consultation, require NHS bodies to provide information or require NHS officers to attend before it.

Joint Committee Arrangements between Kent County Council and Medway Council

(2) In accordance with the direction, it is proposed that the County Council and Medway Council establish a standing Joint Committee to deal with consultation that affect both authorities. Consultations covering Kent and Medway and other authorities may require further ad-hoc arrangements.

(3) Given the populations covered by the two authorities there have been various discussions between officers of this Council and officers of Medway regarding the size of the Joint Committee. It has been agreed that an appropriate number, which preserves the political balance of both authorities but keeps the Committee to a manageable and effective size, would be for the Committee to comprise 12 members. This would consist of seven Members from Kent (4 Conservative, 2 Labour and 1 Liberal Democrat) and five Members from Medway (3 Conservative, 1 Labour and 1 Liberal Democrat).

(4) In order to ensure that all views are properly represented and replicating the rules and procedures for the operation of Overview and Scrutiny in the Constitution, the rules propose that there should be provision for minority reports, should the need arise.

Proposed Terms of Reference and Rules for Kent and Medway NHS Joint Overview and Scrutiny Committee

3. Attached as Appendix 2 are the proposed Terms of Reference and Rules for the operation of the Joint Committee agreed by Medway Council on 4 December 2003.

NHS Overview and Scrutiny Committee – 13 February 2004

4. (1) At its meeting on 13 February 2004 the NHS Overview and Scrutiny Committee questioned whether the size of the Committee - in particular for the County Council - was appropriate. The Committee also asked that appropriate recognition be given to the Joint Committee having the ability to co-opt Borough/District Council representatives and Patient Fora representatives onto the Joint Committee as and when the need arises.

(2) The size of the Committee was established in accordance with the proportionality arrangements for each Council. Numbers were kept small to ensure effectiveness/responsiveness and the ability to convene a Joint Committee quickly.

(3) It is therefore proposed that the Joint Committee should operate for a year on the basis as set out in this report and reviewed following the County Council elections in May 2005.

(4) Protocols for the operation of Overview and Scrutiny of the NHS are embedded within the County Council's Constitution. These protocols were agreed by the Kent Association of Local Authorities in November 2001 in advance of the legislation guidance and regulations.

(5) The protocols have recently been re-visited by colleagues from Borough/District Councils in Kent, Health Authority colleagues and Patients Fora to reflect the changes necessary as a result of the legislation, guidance and regulations becoming operative on 1 January 2003.

(6) I am currently negotiating with Borough/District Council colleagues on the finer detail of these protocols and I seek the County Council's authority to agree these in consultation with the Leaders of the three political groups, after which they will be embedded in the County Council's Constitution.

Recommendations

5. The County Council is asked to:
- (a) note the Department of Health Direction;
 - (b) agree to the establishment of a Joint Committee comprising 12 Members: 7 from Kent (4:2:1), 5 from Medway (3:1:1) with Terms of Reference and Rules as set out in Appendix 2 to this report;
 - (c) the structure, terms of reference and rules be reviewed following the County Council elections in May 2005; and
 - (d) to authorise the County Secretary in consultation with the three Group Leaders to agree the protocols for the operation of Overview and Scrutiny of the NHS in Kent and to embed these protocols in the County Council's Constitution at the earliest opportunity.

Geoff Wild
County Secretary

Background Documents: