

From: Sue Chandler – Chair of the Health Overview Scrutiny Committee  
Ben Watts – General Counsel

To: **County Council – 15 March 2018**

Subject: Joint Health Overview and Scrutiny Committees - Terms of Reference and Membership

Classification: **Unrestricted**

**Summary:**

This report seeks approval to:

1. The establishment of a new Joint Health Overview and Scrutiny Committee of Kent County Council, Medway Council, East Sussex County Council and Bexley Council to meet the requirements of health scrutiny legislation in relation to consultation by the NHS with these local authorities on proposed changes to Hyper Acute and Acute Stroke Services in Kent and Medway.
2. An amendment to the membership of the existing Kent & Medway Joint Health and Overview Scrutiny Committee to establish parity of membership between Kent and Medway Councils.

**1. Introduction**

- 1.1 The establishment of committees, the determination of their size and terms of reference, the allocation of seats to political groups and the appointment of Members to serve on committees is a matter for decision by the Council.
- 1.2 The establishment of a Joint Committee involving more than one local authority has to be approved by each of the participating Councils.
- 2. Establishment of Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee – Kent, Medway, East Sussex and Bexley**
  - 2.1 In Summer 2015 Kent County Council's Health Overview and Scrutiny Committee and Medway Council's Health and Adult Social Care Overview and Scrutiny Committee determined that changes being proposed by the NHS to Hyper Acute and Acute Stroke Services in Kent and Medway amounted to a proposal for a substantial variation to the health service across both areas.
  - 2.2 Whenever the NHS as the responsible person has under consideration any proposal for a substantial development of, or variation to the health service, a duty to consult with the relevant local authority is triggered under Regulation

23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

- 2.3 Regulation 30 stipulates that where the NHS consults more than one local authority pursuant to Regulation 23 those local authorities must appoint a joint overview and scrutiny committee for the purpose of the consultation and only that joint overview and scrutiny committee may make comments, require the provision of information and the attendance at meetings by the NHS colleagues.
- 2.4 During 2016 and 2017 the Kent and Medway Joint Health Overview and Scrutiny Committee has been meeting to consider and comment on the review of Hyper Acute and Acute Stroke Services, the emerging case for change and possible options for a new model of care which would meet national standards.
- 2.5 On 12 December 2017 the Kent and Medway Joint HOSC was formally notified that the Joint Clinical Commissioning Group Committee overseeing the Stroke Review (initially comprising the eight Kent and Medway CCGs) had been expanded to include Bexley CCG and High Weald Lewes Havens CCG as activity modelling had highlighted the extent of external flows of stroke patients to Kent and Medway from Bexley and East Sussex. As a consequence of this further analysis the Health Overview and Scrutiny Committees in East Sussex and Bexley were advised of the review and both determined that the emerging proposals to reconfigure stroke services in Kent and Medway constituted a substantial variation to these services for their areas. This has generated a statutory requirement to set up a new Joint Health Overview and Scrutiny Committee involving Kent County Council, East Sussex County Council, Medway Council and Bexley Council for the purpose of consultation by the NHS with Overview and Scrutiny on the Stroke Review.
- 2.6 In order to meet the statutory requirements of the health scrutiny legislation, the establishment of the Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee of Kent County Council, Medway Council, East Sussex County Council and Bexley Council, with terms of reference as set out in Appendix 1 to this report, is proposed.
- 2.7 Under the Terms of Reference, each local authority will reserve to itself the right of referral to the Secretary of State rather than confer this power on the Joint HOSC. The power to refer is available to local authorities in relation to contested health service reconfigurations in specified circumstances following consultation with overview and scrutiny by the NHS under Regulations 23 or 30).
- 2.8 It has been agreed by the Chairs of the four local authority Health Overview and Scrutiny Committees to recommend that the new Joint Committee should comprise 12 Members (which is the size of the existing Joint Kent and Medway Health Overview and Scrutiny Committee) with a composition of four members each from Kent and Medway and two each from East Sussex and Bexley. This reflects the agreement to equality of representation between

Kent and Medway, as detailed below, and the relatively smaller population affected by the stroke review in Bexley and East Sussex.

- 2.9 The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group on the Council as a whole, unless alternative arrangements are notified to all Members and agreed without any Councillor voting against them. The allocation of the four Kent seats on the new Joint HOSC would therefore be three seats for the Conservative Group and one for the Liberal Democrat Group. This would not generate a need to make any other changes to the overall allocation of seats across other Council Committees.

**3. Amendment to the membership of the existing Kent & Medway Joint Health and Overview Scrutiny Committee**

- 3.1 In addition to the establishment of Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee, discussion has also taken place with Medway Council regarding the balance of representation on the existing Kent and Medway Joint Health Overview and Scrutiny Committee.

- 3.2 Following discussions, an informal agreement has been reached on the equality of representation between Kent and Medway on the existing Kent and Medway Joint Health Overview and Scrutiny Committee. It is recommended that there will be four Members from each Council appointed to the Committee which will come into effect from the beginning of the new Municipal Year. The allocation of the four Kent seats would be three seats for the Conservative Group and one for the Liberal Democrat Group. The power to make a referral to the Secretary of State would remain with each local authority.

**4. Recommendation**

**The County Council is requested to approve:**

- a) **the establishment of a new Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee and adoption of its Terms of Reference.**
- b) **the amendment to the membership of the existing Kent & Medway Joint Health Overview and Scrutiny Committee to establish parity of membership between Kent and Medway Councils with four Members from each Council, which for KCC, based on the current proportionality across all Committees, is 3 Conservative and 1 Liberal Democrat**

**5. Background Documents:**

Appendix 1 - Draft Terms of Reference: Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee

**Contact details**

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## **Appendix 1**

### **Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (JHOSC)**

#### **(a) Terms of Reference**

- (1) To consider information and make comments on proposals for a substantial variation to stroke services in Kent & Medway which affect Kent, Medway, East Sussex and Bexley and which are under consideration by a relevant NHS body.
- (2) To exercise the right to make comments under regulations 23(4) and 30(5) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (the 2013 Regulations) on behalf of the relevant Overview and Scrutiny Committees of Kent County Council, Medway Council, East Sussex County Council and Bexley Council on proposals relating to stroke services in Kent and Medway under consideration by a relevant NHS body.
- (3) To consider whether the proposal for a substantial variation to stroke services in Kent & Medway affecting the areas covered by Kent, Medway, East Sussex and Bexley should be referred to the Secretary of State under regulation 23(9) of the 2013 Regulations and, if deemed appropriate, to recommend this course of action to the relevant Overview and Scrutiny Committees of Kent County Council, Medway Council, East Sussex County Council and Bexley Council who may each agree to make a referral in line with their respective Constitutions. (Note: the exercise of the power to make a referral to the Secretary of State has not been delegated to the JHOSC).

#### **(b) Rules**

- (1) Regulation 30 of the 2013 Regulations states that where a relevant NHS body or a relevant health service provider consults more than one local authority on any proposal which they have under consideration for a substantial development of, or variation to, the provision of a health service in the local authorities' areas, those local authorities must appoint a Joint Overview and Scrutiny Committee (JHOSC) for the purposes of the review and only that Committee may make comments.
- (2) There will be a Joint Health Overview and Scrutiny Committee, for the Kent & Medway Stroke Review, comprising of:
  - 4 Members of Kent County Council
  - 4 Members of Medway Council
  - 2 Members of East Sussex County Council
  - 2 Members of Bexley Council

- (3) The quorum of the Kent, Medway, East Sussex and Bexley Joint Health Overview and Scrutiny Committee is 4 Members with at least one Member from each constituent Authority present.
- (4) The JHOSC will appoint a Chair and Vice-Chair at its first meeting in each municipal year. (It is expected that the Chair and Vice-Chair will be appointed from among the Kent and Medway Members on an annually rotating basis). Where a review is unfinished at the end of a municipal year, the Committee may agree that the previous year's Chair (if still a member of the committee) may continue to preside over consideration of matters relating to that review.
- (5) The formal response of the JHOSC will be reached as far as is reasonably practicable by consensus and decided by a majority vote. If the JHOSC cannot agree a single response to a proposal under consideration then a minority response which is supported by the largest minority, but at least two Members, may be prepared and submitted for consideration by the NHS body or a relevant health service provider with the majority response. The names of those who dissent may, at a Member's request, be recorded on the main response.