

Mid Yorkshire Clinical Services Strategy

Joint Health Overview and Scrutiny Committee (Kirklees and Wakefield)

Terms of reference¹

1.0 Introduction

- 1.1 The Mid Yorkshire Hospitals NHS Trust is reviewing possible services changes with a view to developing a five year clinical services strategy
- 1.2 The reasons for the review are:
 - Increasing need for care closer to home
 - To improve safety, outcomes and experience (e.g. meeting national standards and guidance, supporting specialisation)
 - To meet increasing demand
 - Workforce supply issues (emergency, obstetrics, paediatrics, surgery)
 - Finances – national £20bn and Trust deficit
 - To ensure clinical and financial sustainability
- 1.3 The guiding principles of the review are:
 - Patient safety
 - All 3 sites to remain open
 - Out-patient and diagnostic on all 3 sites
 - Services must be viable
 - Clinical argument – no duplication/triplication of services
 - Hospital seen as last resort
 - Unplanned transfer of care not acceptable
 - Care closer to home
 - Greater integration of community and hospital therapy provision
 - Optimum use of theatre capacity
 - 24 hour/7 day model of working
- 1.4 Recommendations/ proposals for the future shape of services have been made by the Calderdale, Kirklees and Wakefield PCT Cluster in conjunction with Mid Yorkshire Hospitals NHS Trust. The PCT Cluster with the Trust is to hold a formal public consultation on its recommendations/ proposals. This has included engagement with the Joint Health Overview and Scrutiny Committee²
- 1.5 The outcome of the consultation around the recommendations / proposals for the future delivery services at Mid Yorkshire Hospitals NHS Trust will be considered with a view to the Full Business Case being agreed in June 2013.

2.0 Background

¹ In line with the (Yorkshire and the Humber) Regional Joint Health Scrutiny Protocol, this is subject to agreement / approval by the joint Health Overview and Scrutiny Committee (HOSC).

² The 2003 Direction from the Secretary of State (for Health) requires scrutiny committees to convene a joint HOSC when two or more HOSCs consider proposed service changes and/or developments to be substantial, and where such changes are likely to affect a population larger than a single HOSC.

- 2.1 During 2009/10 the Joint Health Scrutiny Committee (Kirklees and Wakefield) considered proposals to reconfigure specialist services at Mid Yorkshire Hospitals NHS Trust. It was anticipated at the end of that consultation that further proposals would emerge, particularly as a result of the National Clinical Advisory Team's recommendations in June 2010 regarding the reconfiguration of emergency services at Pontefract, acute surgery and paediatrics.
- 2.2 In May 2011 Mid Yorkshire clinicians started work to review the way hospital services are organised. By the end of the year the Trust brought together five options covering care for children who need an overnight stay in hospital (inpatient paediatrics), women who are pregnant (Obstetrics), emergency care and surgery. These options were discussed with patients, the public, community groups and other key stakeholders.
- 2.3 In March 2012, the need for more radical solutions was identified to deliver clinical and financial sustainability. As a result two options emerged:

Option 1:

- Centralisation of some key services to Pinderfields (paediatrics, obstetric, colorectal surgery)
- Dewsbury A&E unchanged, Pontefract A&E treats less serious conditions

Option 2:

- Brings together all complex and emergency services as above, plus non-elective medicine, all acute and complex surgery, critical care at Pinderfields
 - Pontefract and Dewsbury continue to provide planned surgery and treatments, outpatients, diagnostics and rehabilitation
 - Pontefract and Dewsbury A&E treats less serious emergencies.
- 2.4 A formal appraisal process involving clinicians and stakeholders was carried out in June 2012, including non-financial benefits, risks and financial benefits.
 - 2.5 The Calderdale, Kirklees and Wakefield PCT Cluster Board met in January 2013 to consider a preferred option for formal consultation and development of Full Business Case (FBC).
 - 2.6 The Cluster Board concluded that only one of the options would achieve the aims for sustainable clinical excellence. The proposal put forward for consultation includes a focus on care 'outside of hospital' and more joined-up care for patients who do need hospital care.
 - 2.7 Under the proposal Pinderfields would become the major centre for:
 - Inpatient emergency medicine
 - Acute and complex surgery
 - Critical care
 - Inpatient children's services

- Consultant-led births
- 2.8 Pontefract and Dewsbury hospitals would become centres for planned care with increased diagnostics and more planned, non-complex operations. Both hospitals would also have an Accident and Emergency Department which would provide services for the majority of people who need to be seen and treated urgently but whose illness or injury was not life-threatening.
- 2.9 The consultation period is from the 4 March 2013 to the 31 May 2013.

3.0 Purpose and scope of the inquiry

- 3.1 The purpose of the joint scrutiny inquiry is to make an assessment of and, where appropriate, make recommendations on the options / proposals to reconfigure services at Mid Yorkshire Hospitals NHS Trust.
- 3.2 In receiving any options/ proposals arising from the review, the joint Health Overview and Scrutiny Committee (HOSC) will consider the likely implications across Wakefield and North Kirklees. This will include consideration of the:
- Projected improvements in patient outcomes;
 - Likely impact on patients and their families (in the short, medium and longer-term), in particular in terms of access to services and travel times;
 - Views of local service users and/or their representatives;
 - Potential implications and impact on the both the local health economy and the local economy in general;
 - Any other pertinent matters that arise as part of the Committee's inquiry.
- 3.3 The work of the joint HOSC will, as far as practicable, be undertaken to reflect the general principals set out in the Joint Health Scrutiny Protocol (Yorkshire and the Humber), attached at Appendix 1.
- 3.4 The joint HOSC intends to provide a timely and positive contribution to the public consultation on the proposals.

4.0 Media Protocol

- 4.1 The Chair of the Joint HOSC will respond to all media inquiries and make any statements on behalf of the Committee.

5.0 Timetable for the inquiry and submission of evidence

- 5.1 The joint scrutiny inquiry will commence in March 2013, or as soon as practicable following the publication of the recommendations/ proposals. It is likely that the inquiry will take place over a number of sessions, concluding with a final report and recommendations / consultation response.
- 5.2 A more detailed timetable/ schedule of meetings will be provided following publication of the review proposals and the first meeting of the joint HOSC, as set out in the Joint Health Scrutiny Protocol (Yorkshire and the Humber), attached at Appendix 1.

5.3 The Joint Committee has been kept informed and involved (where appropriate) during the engagement phase of the review.

6.0 Membership and arrangements for the Joint HOSC

6.1 Membership and arrangements for the joint HOSC shall be in accordance with the Joint Health Scrutiny Protocol (Yorkshire and the Humber), attached at Appendix 1.

6.2 Agreement has been reached between Kirklees and Wakefield to retain (where practicable) the same membership as the previous Joint Committee to ensure continuity.

7.0 Witnesses

7.1 A witness package will be determined by the Joint Committee following publication of the review proposals.

7.2 The joint HOSC will seek to identify and receive all relevant contributions. As such, the joint HOSC will aim to keep the list of witnesses under review throughout the joint inquiry.

8.0 Monitoring arrangements

8.1 Following completion of the joint scrutiny inquiry and the publication of the consultation response and/or recommendations, a response from the appropriate NHS body (or bodies) receiving the report, will be requested within 28 working days and subsequently considered by the joint HOSC as soon as practicable.

8.2 The Joint Health Scrutiny Committee may, on receipt of the NHS body's response to its recommendations report to the Secretary of State on the grounds that it is not satisfied:

- With the content of the consultation;
- That the proposal is in the interest of the health service in North Kirklees and Wakefield

8.3 Post Consultation and decision. That following the consultation period the Joint Committee may extend its remit to include oversight of the implementation phase of the proposals to provide additional assurance that the services will meet patients' needs and improve the quality and efficiency of services provided.

9.0 Measures of success

9.1 As part of the review of Mid Yorkshire Hospitals NHS Trust Service Strategy, it is important that the views of key stakeholders across the Wakefield and North Kirklees are identified and highlighted as part of the associated consultation and decision-making processes: The establishment of the joint HOSC, alongside the necessary support arrangements, provides a mechanism and process to allow this key role and function to be carried out.

9.2 The joint HOSC will seek to respond to the consultation proposals in an appropriate manner, and publish realistic and practical recommendations, as appropriate. However, how the joint HOSC will deem whether its work has

been successful in making a difference to local people will be identified as the joint inquiry progresses and discussions take place.

APPENDIX 1

PROTOCOL FOR THE YORKSHIRE AND THE HUMBER COUNCILS JOINT HEALTH SCRUTINY COMMITTEE

1.0 INTRODUCTION

- 1.1 This Protocol has been developed as a framework for carrying out scrutiny of regional and specialist health services that impact upon residents across Yorkshire and the Humber under powers for Local Authorities to scrutinise the NHS contained in the Health and Social Care Act 2001.
- 1.2 The Health and Social Care Act 2001 strengthens arrangements for public and patient involvement in the NHS. Sections 7 to 10 of the Act provide for local authority Overview and Scrutiny Committees to scrutinise the NHS and represent local views on the development of local health services, whilst section 242 of the National Health Service Act 2006 (formally section 11 of the Health and Social Care Act 2001), places a duty on NHS organisations to make arrangements to involve and consult patients and the public in service planning and operation, and in the development of proposals for changes. Section 242 has subsequently been amended by the Local Government and Public Involvement in Health Act 2007. NHS organisations are now required to make arrangements so that users of services are involved in the planning and development of these services.
- 1.3 The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 provide for local NHS bodies to consult the Overview and Scrutiny Committee where the NHS body has under consideration any proposal for a substantial development of the health service or for a substantial variation in the provision of such a service in the local authority's area.
- 1.4 The Directions also state that when a local NHS body consults with more than one Overview and Scrutiny Committee on any such proposal, 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;
 - (b) Require the local NHS body to provide information about the proposal;
 - (c) Require an officer of the local NHS body to attend before it to answer such questions as appear to it to be necessary for the discharge of its functions in connection with the consultation.
- 1.5 Notwithstanding these arrangements, individual authorities may wish to comment on proposals by NHS bodies under the broader duties imposed on NHS Bodies by Section 242 of the National Health Service Act 2006.

1.6 This protocol has been developed and agreed by all the local authorities with responsibility for health scrutiny in the Yorkshire and the Humber³ region (Bradford, Calderdale, Kirklees, Leeds, Wakefield, York, North Lincolnshire, Barnsley, Doncaster, Rotherham, Sheffield, East Riding, North Yorkshire, North East Lincolnshire and Hull) as a framework for carrying out joint scrutiny of health in the region in response to a statutory consultation by an NHS body.

2.0 COVERAGE

2.1 Whilst this protocol deals with arrangements within the boundary of Yorkshire and the Humber, it is recognised that there may be occasions when consultations may affect adjoining regions. Arrangements to deal with such circumstances would have to be determined and agreed separately, as and when appropriate.

3.0 PRINCIPLES FOR JOINT HEALTH SCRUTINY

3.1 The basis of joint health scrutiny will be co-operation and partnership with a mutual understanding of the following aims:

- To improve the health of local people and to tackle health inequalities
- Ensuring that people's views and wishes about health and health services are identified and integrated into plans, services and commissioning that achieve local health improvement.
- Scrutinising whether all parts of the community are able to access health services and whether the outcomes of health services are equally good for all sections of the community.

3.2 The Local Authorities and NHS bodies will be willing to share knowledge, respond to requests for information and carry out their duties in an atmosphere of courtesy and respect in accordance with their Codes of Conduct. Personal and prejudicial interest will be declared in all cases, in accordance with the Code of Conduct.

3.3 The scrutiny process will be open and transparent in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000 and meetings will be held in public. Only information that is expressly defined in regulations to be confidential or exempt from publication will be considered in private.

3.4 Different approaches to scrutiny reviews may be taken in each case. The Joint Health Scrutiny Committee will seek to act as inclusively as possible and will take evidence from a wide range of opinion including patients, carers, the voluntary sector, NHS regulatory bodies and staff associations. Attempts will be made to ascertain the views of hard to reach groups, young people and the general public.

³ Details of those authorities that have approved this joint protocol, in line with any local processes and arrangements in force at the time of adoption, are detailed at Annex A.

4.0 SUBSTANTIAL VARIATION AND SUBSTANTIAL DEVELOPMENT

- 4.1 When a NHS body is considering proposals to vary or develop health services, those authorities whose residents are affected must be given the chance to decide whether they consider the proposals to be substantial to their communities. Those that do consider the proposals to be substantial must be formally consulted and must form a Joint Health Overview and Scrutiny Committee to respond to the consultation. The decision about whether proposals are substantial (and therefore whether to participate in a Joint Health Overview and Scrutiny Committee) must be taken by the Health Overview and Scrutiny Committees within the relevant authorities.
- 4.2 The primary focus for identifying whether a change should be considered as substantial is the impact upon patients, carers and the public who use or have the potential to use a service. This would include:-
- **Changes in accessibility of services:** any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location (other than to any part of same operational site).
 - **Impact of proposal on the wider community and other services:** including economic impact, transport, regeneration (e.g. where reprovision of a hospital could involve a new road or substantial house building).
 - **Patients affected:** changes may affect the whole population (such as changes to A&E), or a small group (patients accessing a specialised service). If changes affect a small group it may still be regarded as substantial, particularly if patients need to continue accessing that service for many years (for example renal services).
 - **Methods of service delivery:** altering the way a service is delivered may be a substantial change, for example moving a particular service into community settings rather than being entirely hospital based.
 - **Issues likely to be considered as controversial to local people:** (e.g. where historically services have been provided in a particular way or at a particular location.)
 - **Changes to governance:** which affect NHS bodies' relationships with the public or local authority Overview and Scrutiny Committees (OSC's).

5.0 RESPONDING TO A STATUTORY CONSULTATION BY AN NHS BODY

- 5.1 Where a response to a statutory consultation is required on proposals for substantial variation or substantial development affecting two or more local authorities within Yorkshire and the Humber, scrutiny may be undertaken either by:-

- **Delegated Scrutiny:** The affected local authorities agree to delegate their overview and scrutiny function to a single authority which may be better placed to consider a local priority⁴; or
- **Joint Committee:** The affected local authorities establish a joint committee to determine a single response.

5.2 Accordingly, where any substantial variation or substantial development principally affects residents of a single local authority, scrutiny can be delegated to that authority. Whereas, there is a presumption of wider regional variations or developments are dealt with by a Joint Health Scrutiny Committee.

6.0 DELEGATED SCRUTINY

6.1 Regulations enable a local authority to arrange for its overview and scrutiny functions to be undertaken by a committee from another local authority. Delegation may occur where a local authority believes that another may be better placed to consider a particular local priority and, importantly, the latter agrees to exercise that function. For instance, it might be more appropriate to delegate scrutiny where an NHS body provides a service across two local authority areas but the large majority of those using or affected by the service are in one of those authority areas.

Delegated Powers

6.2 When and where such delegation takes place, the full powers of overview and scrutiny of health shall be given to the delegated committee, but only in relation to the specific delegated function (i.e. a particular inquiry or consultation).

Terms of Reference

6.3 In such circumstances and in accordance with Department of Health guidance, clear terms of reference, clarity about the scope and methods of scrutiny to be used must be determined between the affected local authorities. Formal terms of reference should be drafted and formally agreed by the respective Overview and Scrutiny Committees of the affected local authorities and subsequently shared with the relevant NHS bodies.

6.4 In the context of a proposal for a substantial development or variation to services, where the review of any consultation has been delegated, the power of referral to the Secretary of State where such a proposal is contested is also delegated. The delegating local authority is no longer able to influence the content or outcome of the review⁵.

6.5 The delegated authority (the authority undertaking the consultation exercise) will be responsible for conducting scrutiny in accordance with

⁴ Overview and Scrutiny of Health - Guidance. Department of Health, July 2003. P21, para 7.1

⁵ Overview and Scrutiny of Health - Guidance. Department of Health, July 2003. P21, para 7.4

its own set procedures and will be expected to regularly communicate with the delegating authority(ies).

7.0 JOINT HEALTH SCRUTINY COMMITTEE

- 7.1 Where a wider, joint approach is required to a consultation by an NHS body, a separate Joint Health Scrutiny Committee will be established for each consultation.

Membership of a Joint Health Scrutiny Committee

- 7.2 Under the Local Government Act 2000 provisions, Overview and Scrutiny Committees must generally reflect the make up of full Council. Consequently, when establishing a Joint Health Scrutiny Committee, each participating local authority should ensure that those Councillors it nominates reflects its own political balance. However, the political balance requirements may be waived but only with the agreement of all the participating local authorities⁶.

- 7.3 In accordance with the above, a Joint Committee will be composed of Councillors drawn from Yorkshire and the Humber local authorities in the following terms:-

- where 9 or more Yorkshire and the Humber local authorities participate in a Joint Health Scrutiny Committee – the Chair (or Chair's representative) of each participating authority's Overview and Scrutiny Committee responsible for health will become a member of the Joint Health Scrutiny Committee;
- where 4 to 8 local authorities participate - then each participating authority will nominate 2 Councillors; or
- where 3 or less local authorities participate - then each participating authority will nominate 4 Councillors.

- 7.4 Each local authority should make a decision as to whether it should seek approval from its respective full Council or Executive to delegate authority to its relevant Overview and Scrutiny Committee (responsible for health) or another appropriate body to nominate Councillors on a proportional basis to a Joint Health Scrutiny Committee.

- 7.5 From time to time and where appropriate, the Joint Health Scrutiny Committee may appoint non-voting co-optees for the duration of a consultation. In these circumstances, one or more co-optees could be drawn from local patient, community and voluntary sector organisations affected by substantial change or variation.

Choice of Lead Authority and Chair

- 7.6 Where a Joint Health Scrutiny Committee (as defined by the Health and Social Care Act 2001) is required to consider a substantial development of the health service or a substantial variation, one of the

⁶ Overview and Scrutiny of Health - Guidance. Department of Health, July 2003. P22, para 8.6

affected local authorities would take the lead in terms of organising and Chairing the joint committee.

7.7 Selection of a lead authority, should where possible, be chosen by mutual agreement by the local authorities involved and take into account both capacity to service a Joint Health Scrutiny Committee and available resources. Additionally, the following criteria should guide determination of the Lead Authority:

- The local authority within whose area local communities will be most affected; or if that is evenly spread;
- The local authority within whose area the service being changed is based; or if that is evenly spread;
- The local authority within whose area the health agency leading the consultation is based.

Operating Procedures

7.8 The Joint Health Scrutiny Committee will conduct its business in accordance with the Overview and Scrutiny Committee Procedure Rules of the Lead Authority.

7.9 The Lead Authority will service and administer the scrutiny exercise and liaise with the other affected local authorities.

7.10 The Lead Authority will draw up a draft terms of reference and timetable for the scrutiny exercise, for approval by the Joint Health Scrutiny Committee at its first meeting. The Lead Authority will also have responsibility for arranging meetings, co-ordinating papers in respect of its agenda and drafting the final report.

Meetings of the Joint Health Scrutiny Committee

7.11 At the first meeting of any new inquiry, the Joint Health Scrutiny Committee will determine:

- Terms of reference of the inquiry;
- Number of sessions required;
- Timetable of meetings & venue.

Reports of the Joint Health Scrutiny Committee

7.12 At the conclusion of an Inquiry the Joint Health Scrutiny Committee shall produce a written report and recommendations which shall include:

- an explanation of the matter reviewed or scrutinised
- a summary of the evidence considered
- a list of the participants involved in the review or scrutiny; and
- any recommendations on the matter reviewed or scrutinised.

- 7.13 Reports shall be agreed by a majority of members of the Joint Health Scrutiny Committee.
- 7.14 Reports shall be sent to all relevant local authorities, to NHS Yorkshire and the Humber and the relevant health agencies, along with any other bodies determined by the Joint Health Scrutiny Committee and Lead Authority.
- 7.15 The Joint Health Scrutiny Committee shall request a response to its report and recommendations from the NHS body or bodies receiving the report within 28 working days.
- 7.16 The Joint Health Scrutiny Committee may, on receipt of the NHS body's response to its recommendations report to the Secretary of State on the grounds that it is not satisfied:
 - with the content of the consultation; or
 - that the proposal is in the interests of the health service in the area.
- 7.17 In circumstances where an NHS Body has failed to consult over substantial variation or development, or where consultation arrangements are inadequate or insufficient time provided, then the affected local authority or authorities may decide to make appropriate representations to the NHS Body concerned.

Minority reports

- 7.18 Where a member of a Joint Health Scrutiny Committee does not agree with the content of the Committee's report, they may produce a report setting out their findings and recommendations and such a report will form an Appendix to the Joint Health Scrutiny Committee's report.

8.0 DISCRETIONARY JOINT WORKING

- 8.1 Guidance issued by the Department of Health⁷ states '*that the role of (scrutiny) committees is to take an overview of health services and planning within the locality and then to scrutinise priority areas to identify whether they meet local needs effectively.*' This suggests a more proactive role for overview across Yorkshire and the Humber. It is also recognised that individual local authority scrutiny committees may wish to engage with and scrutinise regional NHS/health bodies or look at broader regional health issues.
- 8.2 In these circumstances, or where a health scrutiny review is initiated that affects more than one authority, then it may be appropriate and more effective for local authorities in Yorkshire and the Humber to agree on an ad-hoc basis, joint arrangements based on this protocol to undertake such work.

⁷ Overview and Scrutiny of Health - Guidance, July 2003

- 8.3 To enable Yorkshire and the Humber local authorities to explore potential opportunities for future joint working, all local authorities should:
- share work programmes of their respective scrutiny committees (health);
 - arrange for appropriate officers to meet and liaise on a regular basis; and,
 - where appropriate, facilitate member level meetings across Yorkshire and the Humber

