

**LONDON BOROUGH OF TOWER HAMLETS**

**COUNCIL MEETING**

**27<sup>th</sup> NOVEMBER 2013**

**APPOINTMENTS TO JOINT HEALTH OVERVIEW AND SCRUTINY  
COMMITTEES – DELEGATION OF POWER**

**REPORT OF HEAD OF PAID SERVICE**

**1. SUMMARY**

- 1.1 This report recommends that full Council delegates the power to appoint joint health scrutiny committees to the Overview and Scrutiny Committee. This recommendation has arisen in light of the requirements for health scrutiny established by the London Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, which came into force on 1 April 2013.
- 1.2 When an NHS organisation proposes to make a 'substantial variation' in services there is a statutory requirement to consult local authorities whose areas are affected. Where changes affect more than one borough the affected boroughs are required to appoint a joint committee and make a single response to the NHS organisation.
- 1.3 Service changes have been proposed by London Cancer that relate to Tower Hamlets and 12 other boroughs across north, central and east London. The consultation process for these changes is likely to require the formation of a joint health scrutiny committee under the new Regulations. Furthermore, London Cancer and other NHS organisations have indicated that there will be more changes to services across this sub-region which will also require joint health scrutiny committees.
- 1.4 The administration and organisation involved in forming a joint overview scrutiny committee, is challenging and time consuming, particularly for 13 boroughs as in the case of the London Cancer proposal. It is likely that the Council will encounter difficulties in meeting consultation timeframes if it remains reliant on reports to full council.
- 1.5 A solution has therefore been put forward whereby power to make these appointments is delegated by full Council to the Overview and Scrutiny

Committee. This committee meets monthly and will be better placed to make any necessary appointments in a timely fashion.

## **2. RECOMMENDATIONS**

Full Council is recommended to:

- 2.1 Delegate to the Overview and Scrutiny Committee the power to establish and make appointments to a joint overview and scrutiny committee.
- 2.2 Authorise any necessary and consequential amendment to the Council's Constitution to put into effect the above delegation.

## **3. BACKGROUND**

### *London Cancer proposal*

- 3.1 In June 2013 London Cancer announced their proposal to make changes to the delivery of specialist cardiovascular and cancer services across north, central and east London, Essex and Hertfordshire. They have proposed the centralisation of these services, combining specialist cardiovascular services at one hospital and specialist cancer services at another.

### *Consultation processes*

- 3.2 When an NHS organisation, such as London Cancer, proposes to make changes that would cause 'substantial variation' in services there is a requirement to consult the relevant health scrutiny committees. Where changes affect more than one borough NHS organisations can insist that all boroughs come together to form one committee and make a single response to the NHS organisation, in this instance London Cancer. If proposed changes are not deemed to be a substantial variation, no formal consultation is required, although there is usually a process of engagement with stakeholders, including local health scrutiny committees.
- 3.3 London Cancer are currently undertaking an initial informal engagement process to gauge people's views on the changes. This is when health scrutiny committees will agree with London Cancer whether or not the changes constitute a 'substantial variation'. If the changes are a substantial variation then between December 2013 and late March 2014 London Cancer will initiate a formal consultation and engagement process. This will involve informal meetings and responses from smaller groups of boroughs (inner north east London, outer north east London and north central London), followed by a meeting and formal response from the newly formed 13 borough joint committee.

- 3.4 *Delegating appointment powers to the Overview and Scrutiny Committee*  
In relation to the forming of the 13 borough joint health scrutiny committee, other London boroughs, namely Havering and Redbridge, have said that it is much quicker for them to make appointments to any necessary joint committee because the power to make these appointments has been delegated to their Health Scrutiny Committee. The section in their Constitution regarding this is as follows:

*Joint scrutiny of health service*

*The Health Overview & Scrutiny Committee is authorised pursuant to Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to establish together with the health overview & scrutiny committees of one or more other local authorities a joint overview & scrutiny committee.*

*Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing overview & scrutiny Committees may agree.*

- 3.5 To make the process of appointments to joint health scrutiny committees quicker in Tower Hamlets, full Council is therefore recommended to make a similar change to the constitution as Havering and Redbridge have already done, delegating power to make appointments to the Overview and Scrutiny Committee. This is suggested particularly in light of the increased number of 'substantial variation' changes that are likely to be proposed by NHS organisations over the next 18 months, requiring joint health committees to be formed.

#### **4. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 4.1 This report is submitted on behalf of Health Scrutiny Panel and recommends that full Council delegates the power to make appointments to any joint health scrutiny committee to the Overview and Scrutiny Committee.
- 4.2 There are no specific financial implications arising from the report's recommendations however in the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made.

#### **5. LEGAL COMMENTS**

- 5.1 The principal requirements for health scrutiny are set out in the London Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny)

Regulations 2013. The Regulations came into force (for relevant purposes) on 1 April 2013.

- 5.2 Regulation 23 requires a responsible person to consult the local authority for an area, if it is considering a proposal for substantial development of, or substantial variation in, the health service in the local authority's area. "Responsible person" means a relevant NHS body or a relevant health service provider.
- 5.3 Regulation 30 deals with joint overview and scrutiny committees (JOSCs). Regulation 30(5) provides that where a responsible person consults more than one local authority pursuant to Regulation 23, the local authorities must appoint a JOSC for the purposes of the consultation and only that JOSC may (under specified provisions of the Regulations) –
- Make comments on the proposal consulted on.
  - Require the provision of information about the proposal.
  - Require a member or employee of R to attend before it to answer questions in connection with the consultation.
- 5.4 Pursuant to section 101(1) of the Local Government Act 1972, the Council may arrange for any of its functions to be discharged by a committee of the authority. In this case, the functions of establishing a JOSC and appointing members to the JOSC are non-executive functions for which full council is presently responsible.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The changes proposed by London Cancer on both acute cancer and cardiovascular services will impact upon the general borough population. The delegation proposed in the report will facilitate the Council's participation in consultation on the London Cancer proposals and on other NHS proposals which may result in a substantial variation in services in the borough. It is through participating in consultation that the Council will be best placed to ensure that changes in health provision take into consideration all 9 equality characteristics, as individuals under these protected characteristics may find themselves as patients receiving treatment under these services. In this way the Council will be able to discharge its own duty under the Equality Act 2010.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no implications for sustainable action for a greener environment

**8. RISK MANAGEMENT IMPLICATIONS**

8.1 Risk is mitigated through delegated powers; this allows members to work with other Health Scrutiny Panels to consider the implications of these changes on the local borough and feed in constructively into the overall response to London Cancer. The course of action of delegating power will also prevent any forceful legal actions to be taken to form a committee promptly under pressure, which could potentially endanger any constructive considerations made by the Health Scrutiny Panel to these changes.

**9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

9.1 There are no implications for crime and disorder reduction.

**10. EFFICIENCY STATEMENT**

10.1 The proposed delegation will facilitate the Council's participation in necessary consultation about health service changes that affect Tower Hamlets.

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**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
<b>None</b>	<b>N/A</b>

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