
Select Committee on Health and Adult Social Care (HASC) – 19th November 2009

Report of the Lead Officer to the Committee

Joint Scrutiny arrangements with Walsall MBC: Dudley Walsall Mental Health Partnership Trust

Purpose of Report

1. To seek approval from Select Committee on Health & Adult Social Care for arrangements to establish a discretionary Joint Overview and Scrutiny Committee to oversee the progress of the Dudley Walsall Mental Health Partnership Trust

Background

2. In November 2007, both Dudley and Walsall Scrutiny Committees considered the proposals to create a single Mental Health Trust to be substantial. Consequently both committees were required to form a **statutory** joint overview and scrutiny committee to deal with the consultation and to respond on behalf of their communities.
3. This Committee met in December to consider proposals and subsequently considered formulated its response, which set out its broad support for creation of a new NHS body to provide mental health services across both boroughs.
4. The response was considered by the West Midlands Strategic Health Authority which approved the creation of the Dudley Walsall Mental Health Partnership NHS Trust (DWMHPT). The Trust was established in October 2008 holding partnership agreements with both authorities relating to the provision and funding of services - Mental health services were previously provided by Walsall teaching Primary Care Trust and Dudley Primary Care Trust, in partnership with the respective local authorities.
5. Arising from its Committee meeting in June Walsall's Health Scrutiny Members expressed interest in forming joint scrutiny arrangements with Dudley to oversee the progress of (DWMHPT). Subsequently it was agreed by the Chairmen to consult on the development of terms of

reference for a **discretionary** joint committee to carry out this task. These are attached at appendix 1 for consideration by the Committee.

6. The establishment of a discretionary Joint Overview and Scrutiny Committee will need to be agreed by the Health and Adult Social Care Select Committee in Dudley and the Health, Social Care and Inclusion Scrutiny and Performance Panel in Walsall.
7. Under Section 245 of the National Health Service Act 2006, two or more Councils may appoint a joint overview and scrutiny committee of those authorities. Moreover Article 11 of the Council's constitution allows for the establishment of joint arrangements with another local authority.
8. If the proposed **discretionary** joint committee feel that there is a need for statutory consultation and the constituent Authorities believe the variation or development in services to be substantial it will form a statutory joint committee to scrutinise proposals, as in December 2007.
9. Whilst it is envisaged the Trust would report to joint Committee in the first instance, under the discretionary arrangements the regular Committees retain the right to be consulted on developments as required - unlike for statutory committees.

Proposals

10. It is proposed to establish a discretionary Joint Overview and Scrutiny Committee of elected Members from Walsall and Dudley to oversee progress of the DWMHPT; its functions will be undertaken in accordance with 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.
11. The first meeting of the Joint Committee will be in late November/early December to carry out this role. The meetings will be hosted on an alternate basis between Authorities.
12. The Joint Committee will consist of five elected Members from each Council, ten in total, as specified in the terms of reference.
13. The membership of each authority shall generally reflect the political make up of full Council, unless elected members agree to waive that requirement. It is suggested that the Dudley appointed group of Members should comprise three Conservative and two Labour, to include the Chair of the Select Committee.
14. The terms of reference for the Joint Committee are attached at Appendix 1 for consideration by the Committee.

N.B The proposals along with the attached terms of reference were approved by Walsall's Health, Social Care and Inclusion Scrutiny and Performance Panel at its last meeting held in October. It also nominated its group of Members for the Joint Committee in accordance with the proposals. Proposed dates for the first meeting are as follows: 14th January or 15th/17th February all commencing at 6pm.

Finance

15. There are no significant cost implications for DMBC from the setting up of the Joint Overview and Scrutiny Committee.
16. Any costs arising in relation to the administration of the joint committee would be shared between Dudley and Walsall Council.

Law

17. The Health and Social Care Act 2001 (c.15) and Section 245 of NHS Act 2006, states that two or more Councils may appoint a Joint Committee.
18. This Joint Health Overview and Scrutiny Committee will undertake the functions of a discretionary joint health overview and scrutiny committee in accordance with Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.

Equality Impact

19. Not applicable

Recommendation

20. It is recommended the Select Committee approve the arrangements for setting up the Joint Overview and Scrutiny Committee and the terms of reference, as set out in paragraphs 11-15 above and in Appendix 1.

Background Papers

21. The future Reconfiguration of Mental Health Services in Dudley and Walsall – HASC 08 November 2007
22. Statutory Joint Dudley and Walsall Health Overview and Scrutiny Committee minutes – 11 December 2007

Brendan Clifford

.....
Brendan Clifford

Lead Officer to the Select Committee on Health and Adult Social Care

Contact Officer: Aaron Sangian (01384) 814757
aaron.sangian@dudley.gov.uk

APPENDIX 1

Joint Health Scrutiny Committee to oversee the progress of the Dudley and Walsall Mental Health Partnership NHS Trust (DWMHPT)

Terms of Reference for a Joint Overview and Scrutiny Committee for Dudley and Walsall Councils.

Function of the Joint Committee

A statutory joint committee between Dudley and Walsall was formed in 2007/08 to respond to proposals to create a single NHS Mental Health Trust to serve both Boroughs.

This Joint Health Overview and Scrutiny Committee will undertake the functions of a discretionary joint health overview and scrutiny committee in accordance with Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to oversee the progress of DWMHPT since its establishment in October 2008.

In performing this role, the Joint Committee shall exercise the following functions:

- To consider developments in connection with the provision, planning and management of Mental Health Services provided by DWMHPT
- To consider its progress against key performance indicators including Annual Health Check core standards, results of Care Quality Commission Provider Reviews (this review will take the place of the Annual Health Check in 2010), and national indicators for local government which apply to Mental Health.
- To determine whether statutory consultation on any proposed service variation is required
- Require the DWMHPT to provide information about service provision or proposals for service change
- To require officer(s) of the NHS to attend before it under Regulation 6 of the Regulations to answer such questions as required in relation to the discharge of its functions
- Such other functions ancillary to those listed above as the Joint Committee considers necessary and appropriate in order fully to perform its role

In undertaking its role of reviewing progress, the Joint Committee should do so from the perspective of all those affected or potentially affected by developments.

Health Overview and Scrutiny Committees operate independently of local authority Executives and the views of individual local authorities expressed by their Executives will be submitted separately to the DWMHPT Trust, or by the PCT as a commissioner.

Appointment

The Committee shall be appointed at the beginning of each municipal year in accordance with the conventions for joint arrangements in place at the constituent councils.

The Committee will be appointed until such time as one of the constituent Councils holds its Annual meeting or at any such time the Committee or its appointing bodies wish to decide otherwise.

Membership

Membership of the Committee will comprise 10 Members with 5 from each Authority's Health Scrutiny Committee reflecting the political balance of Dudley and Walsall. A political proportionate ratio for Dudley would be 3 Conservative to 2 Labour. A political proportionate ratio for Walsall would be 3 Conservative, 1 Labour and 1 Liberal Democrat.

Members will be appointed in accordance with the conventions for nomination of their own council.

In accordance with Section 21(9) of the Local Government Act 2000, Executive members may not be members of an overview and scrutiny committee. Members of the constituent local authorities who are Non-Executive Directors of the NHS cannot be members of the Joint Committee.

Co-optees

The Joint Committee shall be entitled to co-opt non-voting representatives to provide expert advice and consultation.

Attendance by others

The Committee will be open to members of the public to attend unless it is necessary to discuss any exempt or confidential information as set out in the Local Government Act 1972.

The Joint Committee may invite other people (including expert witnesses) to address it, to discuss issues of local concern and/or to answer questions.

The Joint Committee shall permit representatives of any other authority or organisation to attend meetings as an observer. This could include elected Members from either Authority.

Working Groups

Working groups shall only be appointed by a statutory committee.

Quorum

To be one third of the membership, with at least one member from each authority.

Substitutions

Substitution shall be permitted according to the individual arrangements in place within each local authority and provided that the relevant support officer is notified prior to the commencement of the meeting.

Chair

The Committee will be chaired by the respective Health Scrutiny Chairman from the local authority hosting the meeting.

If the Chairman is not present, the remaining members of the Joint Committee shall elect a Chairman for that meeting.

Meetings

Meetings will be hosted on an alternate basis between Dudley MBC and Walsall MBC.

Dates of future meetings shall be agreed at the end of each meeting. However the Committee can convene between scheduled meetings as required, subject to approval of both Dudley and Walsall Health Scrutiny Committee Chairs.

Support

The Committee will be supported by the Hosting Authority in terms of clerking, administrative, advisory and research support. Respective local authority Mental Health leads may have a role in facilitating meetings and will therefore need autonomy to act between meetings as appropriate.

Conduct of Meetings

The conduct of Joint Committee meetings shall be regulated by the Chairman in accordance with the general principles and conventions in connection with the conduct of local authority committee meetings.

Members of the Joint Committee will be bound by the Code of Conduct applicable to Councillors under the Local Government Act 2000.

Formal consultation

If the discretionary joint committee feel that there is a need for statutory consultation and the constituent Authorities believe the variation or development in services to be substantial it will form a statutory joint committee to scrutinise proposals. It merits noting that those local authorities that do not believe that the proposed change is a substantial variation or development in service are not required to participate in the statutory joint committee; if they do not, they lose their right to be consulted on and respond to proposals for 'substantial' variation in services, which would be a loss of democratic influence on the strategic direction of the Trust.