

HEALTH AND ADULT SOCIAL CARE SCRUTINY PANEL

DATE	31 st January 2024
REPORT OF	Assistant Chief Executive (Statutory Scrutiny Officer)
SUBJECT	New Statutory Guidance for Health Scrutiny
STATUS	Open

CONTRIBUTION TO OUR AIMS

The scrutiny panels act as a reviewing mechanism for decisions made relating to the strategic policy, performance and resources required to deliver the ambitions of the Council and its key partnerships. The aim of the scrutiny process is to make sure decision making is robust by providing constructive challenge. This contributes to the Council being effective and efficient, and therefore it is integral to the delivery of the Council Priorities.

EXECUTIVE SUMMARY

This report updates the panel on the new set of regulations and a new set of statutory guidance for Health Scrutiny panels. These will mean that the existing statutory power held by overview and scrutiny committees to refer matters of concern on substantial variations to local health services to the Secretary of State will be removed.

These changes will come into force on the 31st January 2024.

MATTER(S) FOR CONSIDERATION

The panel is asked to note the new set of regulations and new set of statutory power as set out in appendix A.

1. BACKGROUND AND ISSUES

- 1.1 Further to the Health and Social Care Act 2001, local health overview and scrutiny committees (HOSCs) gained the power to scrutinise local health services with powers commencing in 2003. Previously, powers to oversee local health services were held by Community Health Councils. These powers were subsequently split between Patient and Public Involvement Forums (PPI Forums) and HOSCs. The role originally performed by PPI Forums is now carried out by Local Healthwatch.
- 1.2 New rules are being put in place in respect of the aspect of health scrutiny that relates to reconfigurations of local health services from 31st January 2024. This means that from this date, local health overview and scrutiny committees or panels (HOSCs) will no longer be able to formally refer matters to the Secretary of State where they relate to these reconfigurations.
- 1.3 Instead, the Secretary of State will have a broad power to intervene directly in local services. HOSCs (alongside Local Healthwatch) will have the right to be formally consulted on how the Secretary of State uses their powers to “call in”

proposals to make reconfigurations to local health services. HOSCs will also be able to request that the Secretary of State intervene.

1.4 The Secretary of State's powers to "call in" proposals will only be used as a last resort, and only when they consider that local methods for resolution have been exhausted.

1.5 Where a proposal is "called in", the Secretary of State will consult stakeholders, including local authorities, in considering how the intervention power should be used. When a notice is issued by the Secretary of State using their power of intervention, the relevant body must comply with that notice.

1.6 Other aspects of health scrutiny remain unchanged – the power to require representatives of NHS bodies to attend formal meetings, the power to get information from NHS bodies and the power to require NHS bodies to have regard to scrutiny's recommendations.

1.7 HOSCs' status as statutory consultees on reconfigurations also remains in place, with health and care providers required to engage as they do currently.

1.8 These new arrangements will apply to proposals for all substantial variations / reconfigurations where the formal consultation on those proposals begins on, or after, 31 January 2024. The power of referral, under the old/existing arrangements, will only be permissible for formal consultations that began prior to 31 January 2024 and where a decision has been proposed.

2. RISKS AND OPPORTUNITIES

Reporting these changes mitigates the risk of local health overview and scrutiny arrangements not being aligned to the latest guidance.

3. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

This report is presented to ensure that panel members are kept informed of latest regulations and statutory guidance impacting on the work of the Health and Adult Social Care Scrutiny Panel.

4. FINANCIAL CONSIDERATIONS

There are no financial considerations included within this report.

5. IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

There are no impacts on children and young people as a direct result of this report.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

There are no impacts on climate change and the environment as a direct result of this report.

7. MONITORING COMMENTS

In the opinion of the author, this report does not contain recommended changes to policy or resources (people, finance or physical assets). As a result no monitoring comments have been sought from the Council's Monitoring Officer (Chief Legal Officer), Section 151 Officer (Director of Finance) or Strategic Workforce Lead.

8. WARD IMPLICATIONS

May impact on all wards

9. BACKGROUND PAPERS

[The Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) \(Amendment and Saving Provision\) Regulations 2024 \(legislation.gov.uk\)](#)

<https://www.gov.uk/government/publications/advice-to-local-authorities-on-scrutinising-health-services/local-authority-health-scrutiny>

<https://www.gov.uk/government/publications/health-overview-and-scrutiny-committee-principles/health-overview-and-scrutiny-committee-principles>

<https://www.england.nhs.uk/publication/planning-assuring-and-delivering-service-change-for-patients/>

10. CONTACT OFFICER(S)

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