



**Open Report on behalf of Andrew Crookham, Executive Director - Resources**

Report to:	<b>County Council</b>
Date:	<b>27 September 2022</b>
Subject:	<b>Humber and Lincolnshire Joint Health Overview and Scrutiny Committee</b>

**Summary:**

On 16 May 2022, the NHS in the Humber area issued a letter indicating that various relevant NHS bodies would be bringing forward proposals for reconfigurations of acute hospital services in the Humber area under the Humber Acute Services Programme. This is expected to include some NHS services provided at the Diana, Princess of Wales Hospital, in Grimsby and Scunthorpe General Hospital. Both these hospitals and others in the NHS Humber area are used by a significant number of residents in the administrative county of Lincolnshire.

The letter invited East Riding of Yorkshire Council, Hull City Council, Lincolnshire County Council, North Lincolnshire Council and North East Lincolnshire Council to form a Joint Health Overview and Scrutiny Committee for the purpose of joint consultation on the proposals.

Under Regulation 30 of the *Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013*, where the NHS consults more than one local authority on a proposed reconfiguration of services those authorities must appoint a joint overview and scrutiny committee for the purposes of the consultation.

This report invites the County Council to approve the establishment of and its participation in a temporary joint health overview and scrutiny committee, for the purpose of responding to any joint consultation on any proposed reconfiguration of NHS services arising out of the Humber Acute Services Programme, and to appoint three members with voting rights on the Committee.

**Recommendation(s):**

That the County Council:-

- (1) approves the establishment of and the participation of the County Council in a Humber and Lincolnshire Joint Health Overview and Scrutiny Committee, established for the purposes of responding to joint consultation on any proposed substantial reconfiguration of NHS services in the Humber area arising out of the Humber Acute Services Programme to be constituted pursuant to Regulation

30(5) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

- (2) approves the appointment of three members of the Council to such Joint Health Overview and Scrutiny Committee, , with these appointments to be made in accordance with section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups).
- (3) That authority be delegated to the Chief Executive, in consultation with the Leader of the Council and the Chairman of Health Scrutiny Committee for Lincolnshire, to approve the detailed terms of reference for the joint health overview and scrutiny committee.

**Alternatives Considered:**

Regulation 30(5) of the *Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013* requires the establishment of a joint health overview and scrutiny committee where the NHS intends to consult more than one local authority. No alternative has therefore been considered.

Once the response to a consultation falls within the remit of a mandatory joint committee, there is no opportunity for the Health Scrutiny Committee for Lincolnshire to use any of the powers in the regulations, including commenting on the proposals, or requiring the attendance of representatives before it, or the submission of information by the NHS. In addition, any powers of referral to the Secretary of State for Health and Social Care are removed and can only be exercised by the joint committee.

The Health Scrutiny Committee would still be in a position to respond to any public consultation undertaken by the NHS. However, it would be doing so outside the scope of the *Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013*.

**Reasons for Recommendations:**

The recommendations set out the proposed response of the County Council to the requirement to establish a joint health overview and scrutiny committee in circumstances where the NHS has clearly signalled its intention to consult more than one local authority concerning changes to services in the Humber area.

There is an intention by the other four local authorities in receipt of the letter issued on behalf of the NHS in the Humber area that three voting members be appointed by each of the five participating local authorities and the joint committee be titled the 'Humber and Lincolnshire Joint Health Overview and Scrutiny Committee'.

## 1. Background

### Humber Acute Services Programme – Joint Health Scrutiny Arrangements

On 16 May 2022, the Humber and North Yorkshire Health and Care Partnership (on behalf of the Humber Acute Services Programme Team) wrote to the chief executives of five local authorities, including the Chief Executive of Lincolnshire County Council, seeking the establishment of a joint health overview and scrutiny committee to consider hospital reconfiguration proposals in the Humber area. The other four local authorities in receipt of the letter were the East Riding of Yorkshire, Hull City, North Lincolnshire and North East Lincolnshire.

In its letter the NHS restated the provisions in the regulations, which make provision for the establishment of *mandatory* joint health overview and scrutiny committees, where NHS bodies plan to consult more than one local authority in relation to any specific proposed substantial service reconfiguration. The letter also restated the provision whereby only the identified joint health overview and scrutiny committee may:

- (a) make comments on the proposal(s) under consideration;
- (b) require the provision of information about the proposal(s) under consideration; or
- (c) require a member or employee of the relevant NHS body to attend before it to answer questions in connection with the consultation and the proposal(s) under consideration.

In response to the letter, it is proposed to form a joint health overview and scrutiny committee, entitled the Humber and Lincolnshire Joint Health Overview and Scrutiny Committee. It will comprise three councillors from each of the five local authorities, whose residents are likely to be affected by any proposed substantial reconfiguration of NHS services. As part of this plan, terms of reference for the joint committee are being developed and are under discussion between the five local authorities involved. It is proposed that the Chief Executive, in consultation with the Leader of the Council and the Chairman of the Health Scrutiny Committee for Lincolnshire, is authorised to approve the finalised terms of reference.

This Report therefore seeks approval for Lincolnshire County Council participation in the temporary joint committee and the appointment of three members to serve on the Humber and Lincolnshire Joint Health Overview and Scrutiny Committee. This joint committee would be a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies. Furthermore, under section 9FA(3) of the Local Government Act 2000 as applied by the 2013 Regulations, executive councillors are not able to serve as members of the joint committee.

### Venues for Meetings of Joint Health Overview and Scrutiny Committee

All meetings of the Humber and Lincolnshire Joint Health Overview and Scrutiny Committee will be required to take place in person, as it is a formal joint committee. There is a proposal in the draft terms of reference for the venue and chairmanship to rotate between the five local authorities involved. This means that meetings are likely to be held at the council offices of the participating local authorities, for example in Beverley, Grimsby, Hull or Scunthorpe, in addition to Lincoln.

### North Yorkshire and Humber Joint Health Overview and Scrutiny Committee

The six local authorities in the North Yorkshire and Humber Integrated Care System (ICS) area, which comprises (either wholly or in part) the City of York, the East Riding of Yorkshire, Hull City, North Lincolnshire, North East Lincolnshire and North Yorkshire, had previously established a joint health overview and scrutiny committee for their area, with a wide remit. This joint committee was appointed under Regulation 30(1) of the *Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013*.

The joint committee's wide remit had included responding to any reconfiguration proposals for hospital services arising from the Humber Acute Services programme. Following an invitation from these councils, on 20 May 2022 the County Council appointed a non-voting representative to this joint committee. However, while the North Yorkshire and Humber Joint Health Overview and Scrutiny Committee will remain, it will not now be considering any reconfiguration proposals for hospital services from the Humber Acute Services programme, so therefore the appointment made by the County Council in May 2022 has been superseded.

### Humber Acute Services Programme

The Humber Acute Services Programme covers hospital services provided by two trusts: Northern Lincolnshire and Goole NHS Foundation Trust (NLaG) and Hull University Teaching Hospitals NHS Trust (HUTH). NLaG operates Diana, Princess of Wales Hospital, Grimsby, and Scunthorpe General Hospital (as well as Goole District Hospital). The hospitals in Grimsby and Scunthorpe are used by a significant number of residents in Lincolnshire. During 2021-22 £53.5 million of acute hospital activity was commissioned from NLaG by the NHS in Lincolnshire as part its baseline contract.

The Humber Acute Services Programme has been following a different timetable to the Lincolnshire Acute Services Review, which completed its formal public consultation in December 2021, with a decision made by the Lincolnshire Clinical Commissioning Group Board in May 2022. The Humber programme is still at the pre-consultation business case stage. When finalised the pre-consultation business case will be submitted to NHS England, so that it can be considered as part of NHS England's 'gateway review' process. Public consultation will only begin once NHS England has approved the pre-consultation business case.

The Humber Acute Services Programme is expected to include proposals for three types of hospital services, and the potential implications for Lincolnshire residents are stated below:

- Urgent and Emergency Care - Currently full A&E services are provided in Grimsby and Scunthorpe. Any plans for change could lead to increased demand on A&E (or urgent treatment centre) services in Lincolnshire
- Maternity, Neonatal Care and Paediatrics - Currently consultant-led maternity services are provided in Grimsby and Scunthorpe. If one or other of these were to convert to a midwifery-led unit, there would be wider impacts, for example more demand for the services provided by United Lincolnshire Hospitals NHS Trust. Similarly with paediatrics, if for example paediatrics were to be curtailed in Grimsby, this would mean limited paediatric services all along the east coast of Greater Lincolnshire.
- Planned Care and Diagnostics - References in the documentation so far are to protecting planned care from A&E and other pressures, so operations and treatments are not cancelled. This might mean approaches along the lines of the proposed centres of excellence in the Lincolnshire ASR, for stroke services and orthopaedics. Any proposed centres of excellence in Hull would lead to increased travel costs for Lincolnshire patients.

In view of the above, it is important that a response is made to any consultation by the NHS, to protect the interests of Lincolnshire patients. If the proposals pass through the NHS 'gateway' review during the autumn, it would be likely that a meeting of a joint committee would be convened shortly after.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

There no implications arising from the recommendations in this report for those with a protected characteristic, as defined by the Equality Act 2010.

#### Joint Strategic Needs Assessment (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

Any appointed representatives are expected to take account of both the Lincolnshire Joint Strategic Needs Assessment and the Lincolnshire Joint Health and Wellbeing Strategy. Similarly, there would be an expectation that the representatives appointed by the other local authorities in the North Yorkshire and Humber NHS area would take account of their own joint strategic needs assessments and joint health and wellbeing strategies in representing their won authorities.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are no direct implications relating to the prevention of crime and disorder arising from the recommendations in this report.

### **3. Conclusion**

Given the requirements of Regulation 30(5) of the *Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013* and the issue of a letter on behalf of the Humber Acute Programme, approval is sought for the County Council's establishment of and participation in the proposed Humber and Lincolnshire Joint Health Overview and Scrutiny Committee, and the appointment of three members to serve on the Committee.

As discussions are continuing on the detail of the terms of reference, it is proposed that a delegation is made to the Chief Executive, in consultation with the Leader of the Council and the Chairman of the Health Scrutiny Committee for Lincolnshire, so that these can be approved in advance of any first meeting, which may take place during the autumn of 2022.

#### **4. Legal Comments:**

The County Council is under a statutory obligation to establish a joint committee to respond to NHS proposals which involve consultation with more than one local authority.

The Report sets out proposals which would ensure the Council complies with this statutory obligation. The legal requirements relating to membership of the joint Committee are set out in the Report.

The decision is lawful and within the remit of the full Council.

#### **5. Resource Comments:**

There are no significant financial implications relating to the approved budget of the Council arising from the recommendations in this report.

### **6. Consultation**

#### **a) Has Local Member Been Consulted?**

Not applicable.

#### **b) Has Executive Councillor Been Consulted?**

Yes.

#### **c) Scrutiny Comments**

The approval of any joint health overview and scrutiny arrangements, and the appointment of representatives to a joint health overview and scrutiny committee fall outside the remit of the Health Scrutiny Committee for Lincolnshire.

#### **d) Risks and Impact Analysis**

These are set out in the report, but essentially, if the Council were not to make participate in the Joint Committee it would be in breach of its statutory obligation under the 2013 Regulations, and would forgo the opportunity of responding to the consultation on any proposed reconfigurations to NHS hospital services in the Humber area affecting Lincolnshire residents.

#### **7. Background Papers**

Letter from Humber and North Yorkshire Health and Care Partnership (on behalf of Humber Acute Services Programme Team), to the chief executive of five local authorities, 16 May 2022.	Democratic Services, Lincolnshire County Council (Email: <a href="mailto:DemocraticServices@lincolnshire.gov.uk">DemocraticServices@lincolnshire.gov.uk</a> )
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