

HEALTH COMMITTEE POWERS AND DUTIES

To: **Health Committee**

Meeting Date: **29th May 2014**

From: **Dr Liz Robin Director of Public Health**

Electoral division(s): **All**

Forward Plan ref: **Key decision: No**

*(See Appendix 1 for
Guidance)*

Purpose: **To inform the Committee of its role and powers in relation to public health and scrutiny of the NHS**

Recommendation: **The Committee consider the report.**

**The Committee's terms of reference are attached as
Appendix 1**

<i>Officer contact:</i>		<i>Member contact:</i>	
Name:	Liz Robin	Name:	Cllr Kilian Bourke
Post:	Director of Public Health	Chairman:	Health Committee
Email:	Liz.robin@cambridgeshire.gov.uk	Email:	Kilian.bourke@cambridgeshire.gov.uk
Tel:	01223 703259	Tel:	01223 699171

1. BACKGROUND

- 1.1 The Council agreed at its meeting on 11th December 2013 to approve the new Constitution for Cambridgeshire County Council in order to cease operating the existing form of governance and start operating the new committee form of governance from its Annual Meeting on 13 May 2014.

This report sets out the powers and duties of the Health Committee in relation to public health and scrutiny of the NHS

2. COMMITTEE POWERS AND DUTIES: PUBLIC HEALTH

- 2.1 The Committee has authority to oversee and undertake the Council's functions relating to the public health duty of the Council including health improvement, individual and community wellbeing and the reduction of health inequalities, and to assist the Director of Public Health in the exercise of the Public Health statutory duties set out in
- the Health and Social Care Act 2012
 - the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012
- and other relevant legislation
- 2.2 The Health and Social Care Act (2012) introduced a new duty for all upper-tier and unitary local authorities in England to take appropriate steps to improve the health of the people who live in their areas. The legislation lists some of the steps to improve public health that local authorities are able to take, including:
- providing information and advice (for example giving information to the public about healthy eating and exercise) and carrying out research into health improvement
 - providing facilities for the prevention or treatment of illness (such as smoking cessation clinics);
 - providing assistance to help individuals minimise risks to health arising from their accommodation or environment (for example a local authority may wish to improve poor housing where this impacts on health).
- 2.3 The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 require local authorities to:
- provide for the weighing and measuring of certain children in their area (including age and school type).
 - provide or make arrangements to provide for health checks for eligible people.
 - provide, or make arrangements to secure the provision of open access sexual health services in their area.
 - provide a public health advice service to any Clinical Commissioning Groups (CCG)
 - provide information and advice to promote local health protection arrangements – including infectious disease, environmental hazards and extreme weather events.

- 2.4 The 2012 Act requires each upper-tier local authority, acting jointly with the Secretary of State, to appoint a director of public health (DPH) whose role is integral to the new duties for health improvement and health protection. The responsibilities of DsPH include:
- the new health improvement duties that the Act and associated regulations place on local authorities
 - any public health activity undertaken by the local authority under arrangements with the Secretary of State;
 - local authority functions in relation to planning for, and responding to, emergencies that present a risk to public health;
 - the local authority role in co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders
- 2.5 The 2012 Act requires local authorities to have regard to guidance from the Secretary of State when exercising their public health functions; in particular the Department of Health's Public Health Outcomes Framework (PHOF) and National Institute for Health and Care Excellence (NICE) recommendations to fund treatments under their public health functions.
- 2.6 To support its oversight of public health functions, the Committee has authority to approve local public health strategies and policy, where this is not reserved for approval by full Council.
- 2.7 The Committee has authority to respond, as appropriate, on behalf of the Council to Government consultations in respect of public health policy and/or legislation.

3. COMMITTEE POWERS AND DUTIES: SCRUTINY OF THE NHS

- 3.1 The Committee may: :
- Review and scrutinise any matter relating to the planning, provision and operation of the health services in Cambridgeshire
 - Report to the Secretary of State for Health on any proposals for substantial change to any part of the NHS's services within Cambridgeshire (see explanation below)
- 3.2 The Committee has the following statutory powers, under Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).
- 3.3 These powers relate to:
- NHS commissioners. This includes Cambridgeshire and Peterborough Clinical Commissioning Group, which is responsible for commissioning hospital and community health services locally, and NHS England, whose responsibilities include commissioning of specialised health care services and GP services
 - NHS providers. These include, for example, the hospitals which are used by Cambridgeshire patients; Cambridgeshire and Peterborough NHS Foundation Trust (CPFT), which provides mental health services; the East of England

Ambulance Service NHS Foundation Trust; and Cambridgeshire Community Services NHS Trust, which provides community-based healthcare services.

- Non-NHS providers of NHS services. These include private or not-for-profit organisations which are contracted to provide NHS services

- 3.4 The Committee may scrutinise any matter relating to the planning, provision and operation of the health services in Cambridgeshire, and make recommendations.

The organisations above must provide information and attend the Committee requests them to do so. They must respond to any recommendations the Committee makes, stating the reasons if they do not accept any recommendation.

- 3.5 The above organisations **must** consult the Committee on proposals for substantial variations or developments to health services within the area. There is no statutory definition of 'substantial' in this context but the courts have offered some pointers in the judgements handed down in recent cases and the following are examples of decisions made by the courts:-

- The closure of a cottage hospital and its conversion to a mental health rehabilitation unit was held to be a 'substantial' variation. The court noted that a lengthy temporary closure of a hospital could also constitute a Substantial variation.
- Temporary closure of 12 beds in a cottage hospital pending a strategic review of services was held not to be 'substantial'.
- The transfer of 100 geriatric patients from one long stay unit to another 2 miles away was deemed to be a 'substantial' variation.
- The closure of a Bone Marrow Transplant unit was held to be a substantial variation.

Guidance has been developed by the Department of Health which suggests that in assessing whether a proposed variation is 'substantial' or not the following factors should be taken into account :

- changes in accessibility of services
- impact of the service on the wider community and on other services
- the impact on patients and carers: changes may affect a large number of people, or have a considerable impact on a small group
- changes to methods of service delivery

- 3.6 The Committee can refer a proposal for substantial service change to the Secretary of State for Health, if it
- has not been consulted adequately
 - considers that the proposal is not in the interests of the health service in the area
 - Has taken reasonable steps to reach agreement with the NHS
 - Can evidence the above

- 3.7 Where a proposal for a health service change affects more than one local authority, scrutiny must be conducted through a joint health overview and scrutiny committee (JHOSC) made up of members of the authorities concerned.

Recent examples include a JHOSC with Suffolk and Norfolk to examine proposals for specialist surgery for people with liver metastatic cancer; and a JHOSC with Peterborough to examine mental health service proposals.

JHOSC's can also be set up where the local authorities concerned consider it conducive to the efficient scrutiny of proposals affecting more than one Social Services local authority area.

The Council has delegated to the Committee the power to set up a JHOSC under the paragraphs above, and to appoint members to it. In this case, the political balance requirements will apply.

3.8 The Committee is required to consider information and matters referred to it by Cambridgeshire Healthwatch. There is a Healthwatch in every local authority social services area. Their role is to

- help people have their say on local health & social care services by linking them to the organisations buying and providing care.
- find out about people's experiences with local health & social care services and share that information; pointing out the good and helping to improve care where it is needed.
- Help people find out what services are available locally

4. ALIGNMENT WITH CORPORATE PRIORITIES

4.1 Developing the local economy for the benefit of all

Effective public health interventions promote the health and productivity of the workforce, reduce days lost to sickness absence, and reduce loss of productivity due to premature disability and mortality.

4.2 Helping people live healthy and independent lives

Effective exercise of the Committee's powers and duties will contribute to this priority

4.3 Supporting and protecting vulnerable people

Effective exercise of the Committee's powers and duties will contribute to this priority

5. SIGNIFICANT IMPLICATIONS

5.1 Resource Implications

The Committee's decisions will impact on the use of the public health resources.

5.2 Statutory, Risk and Legal Implications

The statutory duties of the Committee are outlined in this report.

5.3 **Equality and Diversity Implications**

The Committee has a duty to oversee and undertake the Council's role in reducing health inequalities.

5.4 **Engagement and Consultation Implications**

The Committee's role in responding to consultations is outlined in this paper. Public consultation would be required on significant changes to public health services.

5.5 **Localism and local Member Involvement Implications**

Public health issues or NHS service changes may affect specific local areas within Cambridgeshire, and local communities may wish to be informed and involved.

5.6 **Public Health Implications**

Effective exercise of the Committee's powers and duties will have a positive impact on the health of Cambridgeshire residents, and support improving the health of the worst off fastest

Source Documents	Location
Cambridgeshire County Council Constitution	
Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).	Room 114 Shire Hall, Cambridge
Local authorities' public health responsibilities (England) Standard note SN06844, Sarah Heath, Social Policy Section, House of Commons Library, March 2014	DPH office 3B Castle Court
Factsheet: The public health role of local authorities. Department of Health (2012)	DPH office 3B Castle Court

HEALTH COMMITTEE TERMS OF REFERENCE

The following is set out in the County Council Constitution, Part 3B

“ Membership

Seventeen members of the Council. The Chairman/woman and Vice-Chairman/woman of the Committee shall be appointed by Full Council.

Five non-voting co-opted District Councillors, one from each District Council in Cambridgeshire. District Councils shall be invited to nominate one member and one substitute. The usual rules for substitution as set out in the Council Procedure Rules shall apply.

Overview of Functions

This committee has delegated authority to exercise the County Council's functions in respect of the following:

- The County Council's public health duty including health improvement, individual and community wellbeing, and reduction of health inequalities
- Responding as appropriate to central government consultation relating to policy or legislation falling within the remit of the Committee
- the review and scrutiny of any matter relating to the planning, provision and operation of the health services in Cambridgeshire
- to report to the Secretary of State for Health on any proposals for substantial change to any part of the NHS's services within Cambridgeshire.

Delegated Authority

Delegation/ Condition

Authority to exercise the powers conferred by Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218) to review and scrutinise any matter relating to the planning provision and operation of the health service in its area.

Authority to exercise the power under Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 to report on a proposal for a substantial health service development or variation to the Secretary of State for Health

Authority to delegate its functions under Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012 to a joint overview and scrutiny committee when this is required by the Direction issued by the Secretary of State for Health in July 2003 or is conducive to the efficient scrutiny of proposals affecting more than one Social Services local authority area.

Authority to appoint members to a joint overview and scrutiny committee established under the paragraph above. In this case the political balance requirements will apply to such appointments.

Authority to assist the Director of Public Health in the exercise of the Public Health statutory duties set out in:

- . the Health and Social Care Act 2012
- . the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012
- . NHS Act 2006
- . Criminal Justice Act 2003
- . Licensing Act 2003
- . Water Industry Act 1991
- . Water Industry Act 1988
- . Mental Health Act 1983
- . Mental Capacity Act 2005

Authority to oversee and undertake the Council's functions relating to the public health duty of the Council including health improvement, individual and community wellbeing, and the reduction of health inequalities

Authority for approving all strategies associated with the committee portfolio area not reserved for approval by Full Council

Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting any of the responsibilities falling with the remit of the Health Committee. “