

OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

Committee Report

Public

Date of Meeting:

25 OCTOBER 2001

**Title: OVERVIEW AND SCRUTINY OF MATTERS RELATING TO THE
HEALTH SERVICE**

Report of: THE CITY SOLICITOR AND SECRETARY

Report reference: TC.213/01

Summary:

The Report sets out the current position in respect of scrutiny arrangements for health service matters and changes proposed in legislation.

Recommendations:

1. Members note the position and
2. Press for full and proper representation for the City Council on any revised scrutiny arrangements which may be put in place in respect of health service matters in future.

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1. INTRODUCTION

1.1 At the last meeting of the Executive on 15 October, a consultation paper was tabled dealing with proposed changes to the organisation of the NHS entitled "Shifting the Balance".

1.2 Questions were raised at the meeting on where responsibility currently lies for scrutinising Health Authorities and I was requested to prepare an update on the position for this Committee.

1.3 This Report sets out briefly the current arrangements for scrutinising health service matters under the City Council's Overview and Scrutiny arrangements and highlights legislative changes which are in the pipeline which Members should be aware of.

2. THE CURRENT POSITION

2.1 Under the current legislation (Section 21(2) (e) of the Local Government Act 2000) Overview and Scrutiny Committees of local authorities can make reports or recommendations in relation to matters which are not the responsibility of the authority but which nevertheless affect the local authority's area or its inhabitants. This general power has been written into the terms of reference of the City Council's own Overview and Scrutiny Committees.

2.2 Further, the statutory guidance issued by the Secretary of State indicates (paragraph 3.66) that he "considers that Overview and Scrutiny committees should, from time to time, examine healthcare provision within their area, for example as part of a review of the Health Improvement Programme".

2.3 Under the present legislation, whilst Overview and Scrutiny Committees can require members of their executive and their own officers to attend and answer questions, they can only invite other persons to meetings to do so.

2.4 The net effect of all this is that the City Council is at liberty to carry out a scrutiny exercise in respect of matters relating to healthcare provision under the general powers referred to above if it so wishes but it can only request, and not oblige, relevant officers in the health service to co-operate with that review and attend committees and any recommendations made would not bind the health authority.

2.5 The health authority may also well have a view on their own capacity and ability to respond in detail to requests to participate in reviews if, for example, they were made by all of the local authorities in Cumbria.

3. PROPOSED CHANGES TO THE SCRUTINY OF HEALTH AUTHORITIES

3.1 In the statutory Guidance (paragraph 3.67) the Secretary of State signalled that it was his intention, when time allowed, to bring in legislation to provide powers for Overview and Scrutiny Committees to require chief executive's of local NHS organisations to attend to answer questions and to strengthen the powers of Overview and Scrutiny Committees to review health authorities performance.

3.2 A framework to allow this to be done has now been put in place by virtue of Sections 7 and 8 of the Health and Social Care Act 2001. It is important to note that these provisions will not come into force until some time next year and will

be preceded by regulations (upon which there will be consultation) which will set out precisely how the new provisions are intended to work. The broad intention of the legislation, however, is to:

- Give specific powers to defined local authorities to review and scrutinise matters relating to the health service in those authorities' areas and to make reports and recommendations on health service matters. The defined authorities will be County Councils; County Boroughs (in Wales); Districts where there is no County and London Boroughs.
- Give power to the defined authorities to require any officer of a local NHS body ie a Health Authority, Primary Care Trust or NHS Trust to attend before the Committee to answer questions.
- Give power to the Secretary of State by regulations to require or enable any relevant authority having such scrutiny functions to set up joint arrangements with other local authorities in its area, whereby members of those other authorities' Overview and Scrutiny Committees are included on the "lead" Authority's Committee to provide a broad representation of Members. This would, in effect, mean the County Council appointing District Council Overview and Scrutiny Committee Members to the County's Overview and Scrutiny Committee to scrutinise matters relating to the health service in the area.

3.3 As mentioned above, the statutory provisions have not yet been brought into force and are awaiting detailed regulations from the Secretary of State . Until those regulations are in place, it will not be possible to know all the detail about how the new arrangements will work. Particularly, we shall have to await the regulations to know the extent to which the Secretary of State will use his powers to enforce a requirement for a nominated "lead" authority to include on its Overview and Scrutiny arrangements for the health service members of other authorities in its area. During any consultation on the detailed regulations, it will be important for the City Council to press that any arrangements made ensure that it is adequately represented on any revised scrutiny mechanism that may be put in place.

3.4 It is an open point as to whether, once the revised arrangements have been put in place, health authorities will be willing to participate voluntarily in separate reviews carried out by individual local authorities under the current general procedures outlined in paragraph 2 above. There is nothing in the legislation as currently drafted which says those arrangements will be curtailed, although this may be addressed in revised guidance and the expected regulations. It is reasonable to assume, however, that if health authorities are subject to a specific statutory scrutiny regime they may well be reluctant to subject themselves to a parallel voluntary framework as well. Hence the need for the City Council to press for proper representation on any revised scrutiny body which may evolve from the new arrangements.

4. RECOMMENDATIONS

It is recommended that:

4.1 Members note the position and

4.2 Press for full and proper representation for the City Council on any revised

scrutiny arrangements which may be put in place in respect of health service matters.

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