

**REPORT OF THE CHAIRMAN OF HEALTH SCRUTINY COMMITTEE
REVISED HEALTH SCRUTINY REGULATIONS AND GUIDANCE**

Purpose of the Report

1. To inform the Committee of recent changes to the powers of the Secretary of State for Health in respect of intervening in the development of new proposals for reconfiguring health services, and to set out how these changes affect current health scrutiny arrangements.

Information and Advice

2. Since 2013, health scrutiny regulations have been in place, giving local authority health scrutiny functions the power to refer the reconfiguration of local health services directly to the Secretary of State for Health for their consideration. These powers are currently captured in the Committee's Terms of reference and in the Overview and Select Committee Procedure Rules within the Council's Constitution.
3. Since 31 January 2024, however, the Council's health scrutiny function no longer has the right to make a formal direct referral in this way. Rather, the Secretary of State for Health now has a broad and discretionary power to intervene or call in reconfigurations of local services, including when requested to do so by any individual or organisation, including Health Scrutiny Committees themselves.
4. Should the Secretary of State use their powers to intervene, then the local Health Scrutiny Committee will be advised and consulted accordingly. Any final decision taken by the Secretary of State arising from exercising these new powers will then have to be carried out by the relevant NHS commissioning body. However, the accompanying guidance to the revised regulations makes clear that the Secretary of State will only intervene as a last resort, and only when all available local methods to resolve issues have been exhausted. The statutory guidance on these new ministerial intervention powers can be accessed via the link below.

[Reconfiguring NHS services - ministerial intervention powers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/reconfiguring-nhs-services-ministerial-intervention-powers)

5. The Committee's remaining powers have not been affected by these changes. The Committee can still require NHS bodies to attend formal meetings, can obtain information from NHS bodies and require NHS bodies to have regard to Committee recommendations. The Committee's role as a statutory consultee on consultations remains in place, with health and care providers required to engage as they do currently. It also the case that NHS

commissioners will be obliged to inform the Secretary of State of any substantial reconfigurations of local health services.

6. It falls within the remit of the Monitoring Officer to make the necessary changes to the Constitution, as these changes arise from amendments to national legislation. The changes, once put in place, will be reported to a full Council meeting for endorsement.

Other Options Considered

7. The Secretary of State for Health's new powers came into effect on 31 January 2024 and the Council is required to amend its Constitution to reflect these changes. Continuing to operate under previous arrangements is not an option.

Reason/s for Recommendation/s

8. To ensure that the Committee is aware of recent changes to the Secretary of State for Health's powers in respect of the reconfiguration of health services, and that amendments are made to the Council's Constitution to reflect those changes.

Statutory and Policy Implications

9. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION

- 1) That the Committee notes the contents of the report.

Councillor Jonathan Wheeler
Chairman of the Health Scrutiny Committee

For any enquiries about this report please contact: Noel McMenamin, Democratic Services Officer 0115 993 2670

Constitutional Comments (KA – 12/02/2024)

10. As stated above in this report, due to statutory changes that came into effect from 31 January 2024, the provisions in the constitution relating to referral to the Secretary of State will need to be amended because new rules have been put in place in respect of the aspect of health scrutiny that relates to reconfigurations of local health services. Currently, under the Council's Constitution (*section 6, Part 1, Paragraph 6 – Health Scrutiny Committee – Terms of Reference*) the Health Scrutiny Committee (HSC) shall, amongst other functions,

refer any matter to the Secretary of State for Health in accordance with the Overview and Select Committee Procedure Rules. The Monitoring Officer will draft the necessary amendments to ensure that the terms of reference are in line with the statutory changes.

Financial Comments [PAA – 12/02/24]

11. There are no specific financial implications arising directly from this report

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All