

<b>DECISION-MAKER:</b>	HEALTH OVERVIEW AND SCRUTINY PANEL		
<b>SUBJECT:</b>	ARRANGEMENTS FOR ASSESSING SUBSTANTIAL CHANGE IN NHS PROVISION - UPDATE		
<b>DATE OF DECISION:</b>	27 JUNE 2024		
<b>REPORT OF:</b>	SCRUTINY MANAGER		
<b><u>CONTACT DETAILS</u></b>			
<b>Executive Director</b>	<b>Title</b>	<b>Executive Director – Enabling Services</b>	
	<b>Name:</b>	<b>Mel Creighton</b>	<b>Tel: 023 8083 3528</b>
	<b>E-mail</b>	<b>Mel.creighton@southampton.gov.uk</b>	
<b>Author:</b>	<b>Title</b>	<b>Scrutiny Manager</b>	
	<b>Name:</b>	<b>Mark Pirnie</b>	<b>Tel: 023 8083 3886</b>
	<b>E-mail</b>	<b>Mark.pirnie@southampton.gov.uk</b>	
<b>STATEMENT OF CONFIDENTIALITY</b>			
None			
<b>BRIEF SUMMARY</b>			
On 31 January 2024 new rules were introduced in respect of the aspect of health scrutiny that relates to the reconfiguration of local health services. This has necessitated an update of the arrangements for assessing significant developments or substantial variations in NHS services across the Southampton, Hampshire, Isle of Wight and Portsmouth local authority areas.			
<b>RECOMMENDATIONS:</b>			
	(i)	That the Panel considers and approves the revised arrangements for assessing significant developments or substantial variations in NHS services across the Southampton, Hampshire, Isle of Wight and Portsmouth local authority areas, attached as Appendix 1.	
<b>REASONS FOR REPORT RECOMMENDATIONS</b>			
1.	To enable the Panel’s approach for assessing significant developments or substantial variations in NHS services to reflect recent changes in legislation.		
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>			
2.	To not update the arrangements for assessing significant developments or substantial variations in NHS services. This was rejected as the approach would not reflect the new rules that relate to the reconfiguration of local health services.		
<b>DETAIL (Including consultation carried out)</b>			
3.	NHS bodies are required to consult relevant health scrutiny committees on any proposals for substantial variations or developments of health services. It is the role of the Panel to determine if the proposal represents a substantial variation or development.		

4.	To support scrutiny panels, and local NHS providers and commissioners, a joint approach was agreed by the local authorities with health scrutiny functions across Hampshire and the Isle of Wight and arrangements for assessing significant developments or substantial variations in NHS services were established.
5.	The arrangements have been updated on a number of occasions to reflect changes in legislation, NHS structures and guidance.
6.	As of 31 January 2024, The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 have been amended to remove a local authority's power to refer contested proposals for major health service changes to the Secretary of State.
7.	Previously, the Secretary of State for Health and Social Care could intervene in reconfigurations of health services upon receiving a local authority referral relating to the adequacy of consultation, or whether the proposal was in the interest of the health service in their area. Following a referral, the Secretary of State had a discretionary power to take certain decisions based on the grounds of the referral.
8.	Schedule 10A to the NHS Act 2006 provides a new call-in power to allow the Secretary of State to intervene in NHS service reconfigurations at any stage where a proposal exists and take or re-take any decision that could have been taken by the NHS commissioning body.
9.	Instead of the referral power, health overview and scrutiny committees and other interested parties can write to request (via a call-in request form) that the Secretary of State consider calling in a proposal. Such a request will then be considered as set out in the statutory guidance.
10.	To reflect the changes outlined above, the framework for assessing substantial change in NHS provision agreed by Southampton, Hampshire, Isle of Wight and Portsmouth Scrutiny Committees has been updated. The revised arrangements are attached as Appendix 1.
11.	The Panel are recommended to approve the updated arrangements in line with the legislative changes. It is anticipated that the other health scrutiny committees across the Hampshire and Isle of Wight Integrated Care Board (ICB) footprint will adopt the updated framework in due course.
12.	It should be noted that local authorities' scrutiny responsibilities for service change (and wider scrutiny responsibilities) have not changed. NHS commissioning bodies' duties to involve and consult the Health Overview and Scrutiny Panel and the public remain in place. It remains the case that NHS commissioning bodies and NHS providers should be actively engaged with their Health Scrutiny Committee from the outset and duration of a reconfiguration proposal.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
13.	None.
<b><u>Property/Other</u></b>	

14.	None.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
15.	The powers relating to health scrutiny and substantial variations can be found in Part 12, s244 of the NHS Act 2006, and more explicitly in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
16.	Schedule 10A to the NHS Act 2006 provides a new call-in power to allow the Secretary of State to intervene in NHS service reconfigurations at any stage where a proposal exists and take or re-take any decision that could have been taken by the NHS commissioning body.
<b><u>Other Legal Implications:</u></b>	
17.	None
<b>RISK MANAGEMENT IMPLICATIONS</b>	
18.	None.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
19.	None
<b>KEY DECISION</b>	No
<b>WARDS/COMMUNITIES AFFECTED:</b>	None directly as a result of this report
<b><u>SUPPORTING DOCUMENTATION</u></b>	
<b>Appendices</b>	
1.	Southampton, Hampshire, Isle of Wight and Portsmouth Health Overview and Scrutiny Committees: Arrangements for Assessing Substantial Change in NHS provision (revised June 2024)
<b>Documents In Members' Rooms</b>	
1.	None
<b>Equality Impact Assessment</b>	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
<b>Data Protection Impact Assessment</b>	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
<b>Other Background Documents - Equality Impact Assessment and Other Background documents available for inspection at:</b>	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None