

**DATE: 13 October 2009**

**Joint Health Scrutiny Committee to oversee the progress of the Dudley Walsall Mental Health Partnership NHS Trust**

**Ward(s)**                      All

**Portfolios:**    Councillor B McCracken – Social Care, Health and Housing

**Summary of report:**

At its meeting on 22 June 2009 the Health Scrutiny and Performance Panel requested that the formation of a joint committee with Dudley Council be progressed. This was to oversee the progress of Dudley Walsall Mental Health Partnership NHS Trust (DWMHPT) since its establishment in October 2008. Following research into joint arrangements at other councils and discussions with constitutional services, officers from each Council held talks to ensure legal requirements were met and to draft a terms of reference.

**Recommendations**

**That, subject to any comments members may wish to make: -**

- 1. A joint committee to consider issues with Dudley on the Dudley and Walsall Mental Health NHS Trust with Dudley Council is agreed,**
- 2. The terms of reference for the joint committee with Dudley Council be approved**
- 3. The Committee is asked to nominate five members, as specified in the draft terms of reference, to the joint committee for the remainder of the municipal year 2009/10.**

**Background papers:**

Mental Health Reconfiguration Consultation Arrangements – Health, Social Care and Inclusion Scrutiny and Performance Panel - (13 November 2007)

Joint Overview and Scrutiny Committee Dudley and Walsall MBC – (11 December 2007)

Health Scrutiny Panel minutes – (22 June 2009)

**Reason for scrutiny:**

In December 2007, a joint overview and scrutiny committee (statutory) for Dudley and Walsall Councils was held. It considered and responded to consultation proposals to create a new NHS organisation to provide mental health services for

the boroughs of Walsall and Dudley.

Previously mental health services were provided by Walsall teaching Primary Care Trust and Dudley Primary Care Trust, in partnership with the respective local authorities.

A new NHS Trust was created on 1 October 2008 which held partnership agreements with Dudley and Walsall local authorities relating to the provision and funding of services. The new organisation provides all elements of mental health services previously delivered by the PCTs.

The new NHS organisation covers more than one local authority area and so the purpose of the joint arrangement (discretionary) is as set out in the terms of reference - to monitor performance of the Dudley and Walsall Mental Health Partnership NHS Trust.

The joint arrangements will be between the Health Scrutiny panels of Dudley Council and Walsall Council.

**Resource and legal considerations:**

Any cost implications relating to the administration of a joint overview and scrutiny committee would be shared between Dudley and Walsall Council.

The Health and Social Care Act 2001 (c.15) and Section 245 of NHS Act 2006, states that two or more Councils may appoint a Joint Committee.

Health overview and scrutiny committees can join together to form discretionary joint committees and carry out health scrutiny reviews or consider issues that cross boundaries.

To ensure the joint committee complies with the Local Government and Housing Act 1989 in respect of political balance, the scrutiny team sought advice from the Constitutional Services Manager who confirmed that the political balance figure for Walsall Council is 3 Conservative: 1 Labour: 1 Liberal Democrat.

**Citizen impact:**

Members of the joint committee would be representing the views of their electorate.

**Environmental impact:**

None applicable.

**Performance management:**

If established the discretionary joint committee would be responsible for determining performance monitoring arrangements.

**Equality Implications:**


None applicable.

**Consultation:**

The establishment of the joint overview and scrutiny committee will need to be agreed by the Health, Adult Social Care Select Committee in Dudley and the Health Scrutiny and Performance Panel in Walsall.

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## **Joint Health Scrutiny Committee to oversee the progress of the Dudley and Walsall Mental Health Partnership NHS Trust (DWMHPT)**

### **Terms of Reference for a Joint Overview and Scrutiny Committee for Dudley and Walsall Councils.**

#### **Function of the Joint Committee**

A statutory joint committee between Dudley and Walsall was formed in 2007/08 to respond to proposals to create a single NHS Mental Health Trust to serve both Boroughs.

This Joint Health Overview and Scrutiny Committee will undertake the functions of a discretionary joint health overview and scrutiny committee in accordance with Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to oversee the progress of DWMHPT since its establishment in October 2008.

In performing this role, the Joint Committee shall exercise the following functions:

- To consider developments in connection with the provision, planning and management of Mental Health Services provided by DWMHPT
- To consider its progress against key performance indicators including Annual Health Check core standards, results of Care Quality Commission Provider Reviews (this review will take the place of the Annual Health Check in 2010), and national indicators for local government which apply to Mental Health.
- To determine whether statutory consultation on any proposed service variation is required
- Require the DWMHPT to provide information about service provision or proposals for service change
- To require officer(s) of the NHS to attend before it under Regulation 6 of the Regulations to answer such questions as required in relation to the discharge of its functions
- Such other functions ancillary to those listed above as the Joint Committee considers necessary and appropriate in order fully to perform its role

In undertaking its role of reviewing progress, the Joint Committee should do so from the perspective of all those affected or potentially affected by developments.

Health Overview and Scrutiny Committees operate independently of local authority Executives and the views of individual local authorities expressed by their Executives will be submitted separately to the DWMHPT Trust, or by the PCT as a commissioner.

#### **Appointment**

The Committee shall be appointed at the beginning of each municipal year in accordance with the conventions for joint arrangements in place at the constituent councils.

The Committee will be appointed until such time as one of the constituent Councils holds its Annual meeting or at any such time the Committee or its appointing bodies wish to decide otherwise.

## **Membership**

Membership of the Committee will comprise 10 Members with 5 from each Authority's Health Scrutiny Committee reflecting the political balance of Dudley and Walsall. A political proportionate ratio for Dudley would be 3 Conservative to 2 Labour. A political proportionate ratio for Walsall would be 3 Conservative, 1 Labour and 1 Liberal Democrat.

Members will be appointed in accordance with the conventions for nomination of their own council.

In accordance with Section 21(9) of the Local Government Act 2000, Executive members may not be members of an overview and scrutiny committee. Members of the constituent local authorities who are Non-Executive Directors of the NHS cannot be members of the Joint Committee.

## **Co-optees**

The Joint Committee shall be entitled to co-opt non-voting representatives to provide expert advice and consultation.

## **Attendance by others**

The Committee will be open to members of the public to attend unless it is necessary to discuss any exempt or confidential information as set out in the Local Government Act 1972.

The Joint Committee may invite other people (including expert witnesses) to address it, to discuss issues of local concern and/or to answer questions.

The Joint Committee shall permit representatives of any other authority or organisation to attend meetings as an observer. This could include elected Members from either Authority.

## **Working Groups**

Working groups shall only be appointed by a statutory committee.

## **Quorum**

To be one third of the membership, with at least one member from each authority.

## **Substitutions**

Substitution shall be permitted according to the individual arrangements in place within each local authority and provided that the relevant support officer is notified prior to the commencement of the meeting.

## **Chair**

The Committee will be chaired by the respective Health Scrutiny Chairman from the local authority hosting the meeting.

If the Chairman is not present, the remaining members of the Joint Committee shall elect a Chairman for that meeting.

## **Meetings**

Meetings will be hosted on an alternate basis between Dudley MBC and Walsall MBC.

Dates of future meetings shall be agreed at the end of each meeting. However the Committee can convene between scheduled meetings as required, subject to approval of both Dudley and Walsall Health Scrutiny Committee Chairs.

## **Support**

The Committee will be supported by the Hosting Authority in terms of clerking, administrative, advisory and research support. Respective local authority Mental Health leads may have a role in facilitating meetings and will therefore need autonomy to act between meetings as appropriate.

## **Conduct of Meetings**

The conduct of Joint Committee meetings shall be regulated by the Chairman in accordance with the general principles and conventions in connection with the conduct of local authority committee meetings.

Members of the Joint Committee will be bound by the Code of Conduct applicable to Councillors under the Local Government Act 2000.

## **Formal consultation**

If the discretionary joint committee feel that there is a need for statutory consultation and the constituent Authorities believe the variation or development in services to be substantial it will form a statutory joint committee to scrutinise proposals. It merits noting that those local authorities that do not believe that the proposed change is a substantial variation or development in service are not required to participate in the statutory joint committee; if they do not, they lose their right to be consulted on and respond to proposals for 'substantial' variation in services, which would be a loss of democratic influence on the strategic direction of the Trust.