

ITEM NO.

TITLE	:	JOINT SCRUTINY OF THE PENNINE ACUTE HOSPITALS NHS TRUST AND THE PENNINE CARE NHS TRUST		
TO / ON	:	HEALTHIER AND SAFER COMMUNITIES SCRUTINY COMMISSION	4 SEPTEMBER 2003	
			24 SEPTEMBER 2003	
		THE EXECUTIVE		
		COUNCIL	5 <sup>th</sup> NOVEMBER 2003	
FROM	:	THE LEADER OF THE COUNCIL		
STATUS	:	FOR PUBLICATION		

# 1.0 TYPE OF DECISION

1.1 What type of decision is to be taken:-

EXECUTIVE DECISION			N	COUNCIL DECISION
Key		Non Key		Yes

# 1.2 If a key decision, has it been included in the Forward Plan

Inclusion in Forward Plan	Yes	Date of Plan

# 2.0 SUMMARY

This report:-
(1) Recommends an approach to the Joint Scrutiny of the Pennine Acute Hospitals NHS Trust and the Pennine Care NHS Trust (this is a Mental Health Trust) which can be adopted by all Councils which receive services from these organisations. The report details the financial contributions which it is suggested will be required to establish two joint committees, one for each organisation and how these resources will be utilised to employ a specialist to
develop the joint scrutiny function.
(2) Makes subsequent recommendations to delegate the Council's health scrutiny function to the joint committees and amend the Council's constitution;

(3) Makes recommendations to delegate certain health scrutiny functions to The Association Greater Manchester Authorities and proposals to amend the Council's constitution

# 3.0 OPTIONS AND RECOMMENDED OPTIONS (with reasons)

The recommendations are in two parts one relating to the Pennine Acute Hospitals NHS Trust, the Pennine Care NHS Trust and the other to AGMA

# Pennine Acute Hospitals NHS Trust Joint Committee and the Pennine Care NHS Trust Joint Committee

## OPTION1

3.1That, in accordance with Section 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 the Council approves the establishment of two joint committees as set out in the report to scrutinise the services of the Pennine Accute Hospitals NHS Trust and the Pennine Care NHS Trust.

- 3.2 That the Council be requested to give consideration to its membership of the two joint committees as set out in paragraph 7.5 of the report
- 3.3 That the suggested financial contributions for the development of the Joint Scrutiny Function be approved for consideration by other Councils.
- 3.4 That, it be noted that, authority will be sought under the Council's delegated powers to approve the establishment of a Joint Scrutiny Officer Post (Health) on Scale PO1/PO4 in accordance with the job description attached at Appendix A
- 3.5 That the Terms of Reference for the Joint Committee as set out in Appendices B and C be approved as the basis for further discussion with the Joint Committees when they have been formed.
- 3.6 That, in accordance with Section 7 of the Health and Social Care Act 2001 and Regulations under that section, the Council delegates its health scrutiny function to the two joint committees in respect of the reviewing and scrutinising of matters relating to the planning, provision and operation of the Pennine Acute Hospitals NHS Trust and the Pennine Care NHS Trust.
- 3.7 That appropriate amendments be made to the Council's constitution to reflect the decisions referred to in paragraph 3.1 and 3.6 above and that reference be made in the constitution to the terms of reference of the Joint Committees when they have been agreed with partner agencies.
- 3.8 That all the Councils in receipt of services provided by the two NHS organisations referred to be requested to approve this report in so far as it relates to the establishment of the two joint committees including the issues relating to political balance and the financial and staffing implications.

#### **OPTION 2**

3.9 That the separate scrutiny of the Pennine Acute Hospitals NHS Trust and

# the Pennine Care NHS Trust by this Council be not approved.

# AGMA Joint Committee (Health)

3.10 That in accordance with Section 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, the Council approves the establishment of the AGMA Joint Committee (Health).

- 3.11 That, in accordance with Section 7 of the Health and Social Care Act 2001 and Regulations under that section the Council delegates its health scrutiny function in respect of the reviewing and scrutinising of matters relating to the planning, provision and operation of services provided by the under mentioned organisations to the AGMA Joint Committee (Health ).
  - (a) Greater Manchester Strategic Health Authority
  - (b) The Greater Manchester Ambulance Service
  - (c) Christies; and
  - (d) The Greater Manchester Workforce Federation
- 3.12 That appropriate amendments be made to the Council's constitution to reflect the decisions referred to in paragraph 3.10 and 3.11 above and that reference be made in the constitution to the terms of reference when these have been agreed with AGMA.
- 3.13 That the decision of the AGMA Executive to offer an additional place to Bolton MBC (to be filled by a representative from the Conservative Party) on their joint health scrutiny committee for the remainder of the municipal year be noted.

# 4.0 THIS REPORT HAS THE FOLLOWING IMPLICATIONS:

Corporate Aims	Creating a Better Future for all Generations, Improving the Quality and Availability of Council Services, Making our Communities Safer and Healthier. Achieving Social Inclusion.
Policy Framework	The report links to the formal Policy framework in terms of contributing to the delivery of the Community Strategy. The report also contributes to the Council's Social Inclusion Plan and Local Agenda 21 Strategy.
Statement by Monitoring Officer	The recommendations are in accordance with Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002. The recommendations will involve amendments to the Council's constitution.

Statement by Director of Finance and E-Government	The revenue budget for 2003/2004 contains £13,000 towards the cost of health scrutiny so the proposals contained in this report can be met from within existing resources.			
Human Resource IT/Land and Property Implications	The staffing implications	s are referre	d to in the re	port.
Wards/Area Boards affected	All Wards.			
Scrutiny Panel's Interest	Healthier and Safer Cor	nmunities C	ommission.	
Consultations	Management Board.			
Call-in	Not applicable.			
Briefings	Executive Members/ Chair		Chief Executive	Yes

#### 5.0 BACKGROUND

- 5.1 The Council became responsible for the scrutiny of health services on 1 January 2003. This responsibility is currently being shared jointly with the Bury Community Health Council until that organisation is abolished on 1<sup>st</sup> December 2003.
- 5.2 Within Greater Manchester, the approach to Joint Scrutiny in respect of strategic issues has been led by the Association of Greater Manchester Authorities (AGMA). The AGMA Health Panel comprising ten members (on the basis of one member per District) was established in July 2002 and is referred to later in this report. At the same time, it was indicated that those local Authorities in areas where local health bodies covered more than one Borough area should consider their own approaches to Joint Scrutiny of those bodies.
- 5.3 Health Scrutiny for local issues in Bury is currently carried out by The Healthier and Safer Communities Commission pending the development of detailed terms of reference, protocols and a work programme. A training event for Members and officers of the Council and all health organisations in Bury to develop these issues was held on 8 July 2003. Participants attending the event commented that they

had found the event useful and it is helping to shape the development of a work programme for Bury, terms of reference and a protocol.

- 5.7 This report relates to:
  - (a) the establishment of two Joint Committees, one to scrutinise the services provided by the Pennine Acute Hospitals NHS Trust and the other to scrutinise services provided by the Pennine Care NHS Trust.
  - (b) The establishment of a joint committee for the Association of Greater Manchester Authorities to scrutinise certain services provided across the conurbation.

#### 6.0 INTRODUCTION

- 6.1 The Health and Social Care Act 2001 placed new responsibilities on local authorities with social services responsibilities to scrutinise health service matters and make reports and recommendations to NHS bodies. This role included both the scrutiny of health care interventions and NHS organisations and consideration of the improvement of the health of the local population, and the many factors which contribute to this.
- 6.2 In many respects the term "scrutiny" gives the impression of an adversarial approach when in fact it is really about collaboration shared aims between health and local government to improve health and reduce inequalities.
- 6.3 Joint Scrutiny of the health services provided by the Pennine Acute Hospitals NHS Trust and the Pennine Care NHS Trust is proposed for the following reasons:-
  - (a) To ensure NHS organisations are not burdened by multiple scrutiny exercises in one year.
  - (b) To reduce duplication of time and effort in Councils.
  - (c) To secure value for money.
  - (d) Improved co-ordination of scrutiny and better opportunities to learn from reviews.
- 6.4 The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 gives Councils the power to appoint Joint Committees to examine the health scrutiny function on such terms and conditions considered appropriate. Appointing authorities can set terms and conditions for the joint committees. There is a strong emphasis in the guidance on a partnership approach to this.
- 6.5 The Secretary of State has now issued a Direction which means that where a local NHS body has to consult more than one Overview and Scrutiny Committee (such as the Pennine Acute Hospitals NHS Trust and The Pennine Care NHS Trust) for a substantial development of the health service or a substantial variation in the provision of service, the local authorities of those Committees shall appoint joint overview and scrutiny committees for the purposes of consultation

- 6.6 In respect of maintaining local priorities, guidance makes it clear that, once the joint Committees have been established, the NHS will have fulfilled its duty to provide information to all overview and scrutiny committees by providing it to the joint committees. The Guidance does make it clear, however that the recommendation to establish joint committees to scrutinise NHS bodies which provide or commission services across more than one authority area does not prevent an overview and scrutiny committee within one local authority from scrutinising such a body individually. The requirement to establish joint committees will only apply for statutory consultation.
- 6.7 Whatever the nature of a Joint Committee it must be able to :-
  - (a) represent the interests of the population that receive services provided or commissioned by the NHS locally; and
  - (b) operate in a way that will lead to a rigorous and objective scrutiny of issues under review.
- 6.8 The rules concerning proportional political representation applies to the establishment of such Joint Committees unless members of all authorities agree that it need not apply.
- 6.9 Officers of the Councils receiving services from the NHS organisations referred to have met on three occasions to consider a suggested approach to Joint Scrutiny of the organisations referred to below:-

<u>NHS Body</u>	Areas Covered
Pennine Acute Hospitals NHS Trust	Bury, North Manchester, Oldham and Rochdale
Pennine Care NHS Trust	Bury, Rochdale, Oldham, Stockport, Tameside

# 7.0 APPROACHES TO JOINT SCRUTINY

- 7.1 It is suggested that two separate bodies be established to conduct the scrutiny of the Pennine Acute Hospitals NHS Trust and the Pennine Care NHS Trust. The differing geographical areas covered by these NHS bodies would make a single meeting procedurally difficult. Examples in guidance make it clear that joint committees may be appropriate where one NHS body provide services across to patients living or working within a number of local authority areas or where a health issue such as teenage pregnancy cuts across geographical boundaries.
- 7.2 In terms of the size of the two Joint Committees, the following matters have been considered:-
  - (i) The two bodies will need to be politically balanced reflecting the overall political balance of the appointing authorities
  - (ii) The bodies should be of an appropriate size allowing for sufficient representation from each authority without the bodies themselves becoming too unwieldy.

- 7.3 Under the Local Government Act 2000 provisions, overview and scrutiny must generally reflect the political nature of the full Council. Where a joint committee is established, the political balance requirements applies for each participating local authority unless members of all authorities agree otherwise.
- 7.4 Having regard to the points referred to in paragraph 7.2 above it is proposed that the scrutiny of the Acute Hospital Trust be undertaken by a body comprising twelve members, i.e. three members per appointing authority, and the Mental Health Trust by a body comprising fifteen members (three per appointing authority).
- 7.5 Various formula have been used to try and achieve political balance across the authorities served by the two NHS bodies. It is suggested that each Council be invited to nominate 3 members to sit on each joint committee as set out below on the basis that this is fair and reasonable between the relevant authorities and will achieve the overall political balance of the Committees. This will achieve a political balance because appointments would be made on the following conventions:-

#### Pennine Acute Hospitals NHS Trust

Bury	2 Labour, 1 Conservative	
Manchester	2 Labour, 1 Liberal Democrat	
Oldham	2 Labour, 1 Liberal Democrat	
Rochdale	2 Labour, 1 Liberal Democrat	(Total 12)

## Pennine Care NHS Trust

Bury	2 Labour, 1 Conservative	
Rochdale	2 Labour, 1 Liberal Democrat	
Oldham	2 Labour, 1 Liberal Democrat	
Tameside	2 Labour, 1 Conservative	
Stockport	2 Liberal Democrat, 1 Labour	(Total 15)
	(this convention in Stockport is	. ,
	not applied consistently at the	
	moment)	

7.6 If the conventions of nomination referred to in paragraph 7.5 are followed this will probably produce joint committees comprised as follows:-

#### Pennine Acute Hospitals NHS Trust

Labour	8 seats
Liberal Democrats	3 seats
Conservative	1 seat

#### Pennine Care NHS Trust

Labour	9 seats
Liberal Democrat	4 seats
Conservative	2 seats

7.7 If Members are minded to approve the above arrangements there will be a review after each election to ensure the political balance is maintained.

## 8.0 CONSTITUTIONAL ISSUES

- 8.1 Section 7 of the Health and Social Care Act 2001 amends section 21 of the Local Government Act 2000. The effect of the amendment is to require local authorities with social services responsibilities to ensure that their overview and scrutiny committee or committees have the power to scrutinise the planning, provision and operation of health services. It is therefore, mandatory that such a local authority has in place arrangements to scrutinise health services.
- 8.2 The Local Government Act 2000 (Constitutions) (England) Direction 2000 states that scrutiny arrangements should be set out in local authority constitutions. Arrangements for the overview and scrutiny of health should be stated clearly in the local authority executive arrangements, which include overview and scrutiny arrangements as part of the constitution.
- 8.3 Councils need to make reference in their constitutions to the delegation of their health scrutiny functions to the joint committees and formal wording to this effect is included in the recommendations.
- 8.4 It is suggested that at the appropriate time constitutions also refer to the terms of reference.

# 9.0 FREQUENCY OF COMMITTEE MEETINGS

- 9.1 It is suggested that the frequency of committee meetings be determined by the Committees respective work programmes, which could range from basic scrutiny of performance management data through to more in depth thematic studies. These programmes will be developed through joint working with all partners.
- 9.2 It is recommended that the Committees meet initially on a quarterly basis, with the potential to set up small sub-groups to carry out more in-depth studies into particular themes or service areas. It is envisaged that the costs of operating the sub-groups will be contained within the total costs referred to in Appendix D, although depending on the how the work programme develops this will need to be kept under review.

# 10.0 ADMINISTRATIVE/RESEARCH SUPPORT

# 10.1 The establishment of a New Joint Scrutiny Officer Post (Health)

- 10.1.1 Officers of the constituent authorities committees have suggested that Bury MBC should "host" a post which would support both panels, both in terms of administration and research, in order to achieve economies of scale.
- 10.1.2 It is estimated that the costs of funding such a post based on the analysis of Appendix D ) would be in the region of £43,000 per annum assuming a grade of PO1/PO4 and based on quarterly meetings. Financial resources have been identified to cover Bury's contribution towards the Joint Scrutiny Function £9,600
- 10.1.3 It is suggested that the funding of the Joint Scrutiny Officer post be shared by the participating Authorities on a basis pro rata to the number of committees on which they are represented as follows:-

Oldham MBC Rochdale MBC:	2 x £4,800 2 x £4,800
Manchester City Council	1 x £4,800
Tameside MBC	1 x £4,800
Stockport MBC	1 x £4,800
Total	£43,200

- 10.1.4 It is considered that the Joint Scrutiny Officer (Health) would need the following skills:-
  - suitably qualified and experienced to provide administrative support (democratic skills) to the committees in terms of agenda preparation and minute taking;
  - (b) fully conversant with the range of issues relating to Health Scrutiny and;
  - (c) experience of networking effectively with a wide range of organisations.
- 10.1.5 The suggested draft Job Description and Personal Specification for the Joint Scrutiny Officer (Health) is set out at Appendix A

# 10.2 Research

10.2.1 It is envisaged that some research information will be available from established sources e.g. Public Health Reports and needs analysis and census data, but there may be a need to research Community needs. It is clear from other Authorities across the Country who have piloted Health Scrutiny, that research is a key component for effective scrutiny. At this stage we do not know the extent of the issues which will emerge for Health Scrutiny and the following options for funding the research function are put forward by Bury MBC as lead organisation for consideration by partners:-

#### 10.2.2 Option A

Authorities contribute additional £2,000 per annum (total £12,000) towards a research fund. Full costed details of research undertaken would be sent to all Councils as part of this process. This may appear to a large amount, but this should be considered in the context of how expensive some research may be and that, particularly at the early stages of health scrutiny, joint committees might have to identify local health needs in order for scrutiny to have an impact.

#### 10.2.3 Option B

The research activity rotate around the Districts for specific pieces of work

# 10.2.4 Option C

That the cost of research be funded pro rata on a population based formula. For instance if the research was designed to improve services in a particular area e.g. Bury MBC, but had benefits for other Councils generally then Bury would contribute the larger sum.

#### 10.2.5 Option D

That in cases where major research is required (over £5,000), this would be the subject of separate reports to the constituent authorities for approval. In such cases Bury MBC would commission the research and recharge other Councils.

10.2.6 It is recommended that Option A be approved for consideration by constituent authorities

#### 11.0 TERMS OF REFERENCE

- 11.1 It is important that the terms of reference for the Joint Committees reflects the following advice from the Audit Commission:-
  - (a) The principle of Health Scrutiny is not to criticise local Health Authorities, but to improve the health of local people;
  - (b) The Department of Health state that "scrutiny is intended to act as a lever to improve the health of local people..... by addressing health inequalities between different groups.... to secure continuous improvement of health services and services that impact on health.
- 11.2 The Department of Health Regulations stipulate that one of the duties of overview and scrutiny in considering health scrutiny is to make reports and recommendations on matters coming before them. It would seem appropriate for the joint bodies to delegate responsibility from their constituent authorities for the approval of such a report. Any alternative process requiring specific approval from individual authorities would be time consuming and potentially unworkable.
- 11.3 The suggested terms of reference for the Joint Committees are set out in Appendices B and C.
- 11.4 Officers of the Constituent Authorities suggest that there will need to be a clear agreed approach for separating the scrutiny of locality based issues from area based issues. It is suggested that a check list of key questions be prepared by partners to determine which subjects should be dealt with locally or across local authority areas. Typical questions on the check list might be:
  - (a) What does this issue relate to?
  - (b) Does this issue predominantly have general implications for the area served by the joint committees or does it predominantly affect a specific community?
  - (c) Is this a statutory consultation by a NHS body in which case this would have to be dealt with by the joint committee?

If the subject had predominantly general implications it would be dealt with by the joint committee. Similarly if the subject had predominantly implications for the locality it would be referred to the locally based overview and scrutiny committee. Obviously there will be cases where the extent of the area affected may not become clear until the particular issue is scoped either by the joint committees or at a local level and there will have to be arrangements for cross referral.

- 11.5 The issues referred to in paragraph 11.4 will be built into the protocol for Joint Scrutiny referred to in the next section.
- 11.6 It is also suggested that the terms of reference for the joint scrutiny committees should make it clear how they link in with other patient and public involvement forums mechanisms. Many of these forums (Patient and Public Involvement Forums) and the networks to support them are currently being established by the Commission for Patient and Public Involvement in Health and it is suggested therefore that the Joint Committees should give consideration to the co-option of appropriate people from the Forums when they become operational on 1<sup>st</sup> December 2003.

# 12.0 DELEGATION AND CONSTITUTIONAL ISSUES FOR JOINT COMMITTEES INCLUDING AGMA

#### 12.1 Joint Committees

- 12.1.1Under the terms of the Health and Social Care Act 2001 and subsequent regulations there is a requirement to consult local overview and scrutiny committees where changes are proposed. Where the changes affect more than one area, the authorities are required to form a joint committee to respond to the consultation. A formal direction to this effect was approved by the Secretary of Sate on 17<sup>th</sup> July 2003.
- 12.1.2 The Local Government Act 2000 (Constitutions) (England) Direction 2000 states that scrutiny arrangements should be set out in Local Authority Constitutions. Arrangements for the overview and scrutiny of health should be stated clearly in the local authority executive arrangements, which include overview and scrutiny arrangements as part of the Constitution. Bury MBC and other Local Authorities will need to make reference to which Committee may principally carry out the power of scrutiny of local health services.
- 12.1.3 Legally the Council's scrutiny function has to be set out in the Council's constitution and this would have to be amended to reflect the delegation of health scrutiny powers to the new joint committees. Constitutions for individual local Authorities will reflect local circumstances and it is not possible therefore to suggest a common form of wording to cover health scrutiny which could be adopted by every Council. However, the Constitution may contain an explanation of how the overview and scrutiny of health will be implemented and might also include an explanation of the roles of any established joint arrangements with or delegated to other local Authorities, with acknowledgement for ad hoc arrangements. This might include the terms of reference and functions of joint arrangements with or delegated to other Authorities, the membership of any Joint Committees or sub-committees and rules governing proceedings of Joint Committees or sub-committees.

12.1.4 Partnership working is crucial to the success of health scrutiny and it is envisaged that the Trusts referred to in this report and the Bury Primary Care Trust will have a major role in contributing to the scrutiny process in terms of providing information or responding to requests to attend committees. It is recommended that the attached protocol (Appendix E) be adopted as the basis for discussion with members of the new joint committees. The protocol is based on Stockport MBC's document, which has national recognition.

#### 12.2 Association of Greater Manchester Authorities

- 12.2.1 The AGMA Health scrutiny panel has been in existence since November 2002 and was set up in response to the Health and Social Care Act 2001 and with the recognition that some NHS bodies cover geographical areas that are not co-terminus with any one local authority.
- 12.2.2 On an informal basis AGMA has been scrutinising the services provided by the following organisations:

The Greater Manchester Strategic Health Authority The Greater Manchester Ambulance Service Christies The Greater Manchester Workforce Federation.

- 12.2.3 The Guidelines make it clear that the power to scrutinise is only exercisable by an authority with social services responsibilities. AGMA has no legal standing nor does it have these responsibilities and it therefore has no legal power in respect of health scrutiny.
- 12.2.4 To rectify this situation each Council has been asked by AGMA to amend its constitution and terms of reference to make it clear that health scrutiny powers in respect of the services referred to in paragraph 12.2.2 above have been delegated to AGMA Joint Committee (Health).
- 12.2.5 Under the Local Government Act 2000 provisions, overview and scrutiny committees must generally reflect the political make up of the full Council. The Local Government and Housing Act 1989 enables local authorities to waive the political balance requirements if all elected Councillors within that authority agree that it need not apply.
- 12.2.6 Where a joint committee is established, the political balance requirements applies for each participating local authority unless all authorities agree to waive that requirement.
- 12.2.7 Overview and scrutiny committees and joint committees generally fall within the political balance requirements of the Local Government and Housing Act 1989.
- 12.2.8 AGMA originally asked Councils to formally waive the political balance requirements for this year. However, Bolton MBC, given their current political situation, were reluctant to do this. On 29<sup>th</sup> August the AGMA Executive decided to offer an additional place to Bolton MBC for the current municipal year on the basis that it would be filled by a representative from the Conservative Party. AGMA consider that this will achieve political balance until the local elections in May 2004 when the membership will be reviewed.

#### JOHN BYRNE LEADER OF THE COUNCIL

For further information on the details of this report, please contact: Alan Darnell, Principal Policy Officer ,Assistant Chief Executive's Division Tel 253- 6020

Background Documents:

Department of Health Overview and Scrutiny Guidance July 2003 Making Health Scrutiny Work The Toolkit – Democratic Health Network and the Local Government information Unit. – November 2002