

LOCAL GOVERNMENT OVERVIEW & SCRUTINY OF HEALTH IN ESSEX

1 SUMMARY

- 1.1 This report outlines the arrangements that are being put in place in Essex to implement a new local authority overview and scrutiny function in respect of health services.

2 INTRODUCTION

- 2.1 As part of the extensive reforms taking place in the NHS, the Health and Social Care Act 2001 gives local authority Overview and Scrutiny Committees (O&S Committee), within authorities that also hold responsibility for social services, (ie: Essex County Council, Thurrock and Southend Unitary Authorities), a statutory power to:-

“....review and scrutinise, in accordance with regulations, matters relating to the health service in the authority’s area, and to make reports and recommendations on such matters in accordance with the regulations”

- 2.2 These functions can include referring contested proposals for major service changes to the Secretary of State.

- 2.3 The Government has already indicated what the duties and responsibilities of NHS bodies will be once the legislation has been enacted and some of the key points are set out below:

- Health bodies will have a statutory duty to provide to the committee any information about the planning and operation of health services in its area as the committee may reasonably require in order to discharge its functions.
- Regulations will require the Chief Executives of local NHS bodies to come before the committee to answer questions if requested.
- In addition to its duty to respond to requests for information and a requirement to respond to O & S Committee reports, regulations under the 2001 Act will require local NHS bodies actively to consult the O & S Committee at an early stage on its plans for:
 - i) Substantial developments of the health service in the Council’s area.
 - ii) Any proposals to make any substantial variation to the provision of such services.

- Local NHS bodies will also be required to satisfy the committee that sufficient time has been allowed for consultation to take place in accordance with its duty to make arrangements to involve and consult under the Health and Social Care Act 2001.
- Where O & S Committees consider that the process of consultation has been inadequate, regulations will provide for O & S Committees to make a referral if they have concerns about the merits of the proposals. In either case the Secretary of State will, if he wishes, be able to seek the advice of the Independent Reconfiguration Panel on contested decisions referred to him. The Independent Reconfiguration Panel will provide government with a new source of independent advice on contested major service change in the NHS. It will assess whether the NHS has done all it can to take the views of local people into account in drawing up their plans for change.

3 PROPOSALS FOR ESSEX

- 3.1 Following the publication of a consultative document in early 2002, Essex County Council convened meetings to consider how best to implement health overview and scrutiny in Essex, in a way which would involve district and borough Councils. The Council was represented at these by former Councillor Mrs W M Stevenson.
- 3.2 The situation in Essex is complex, given the existence of two Unitary Councils, the County Council and a substantial number of district and borough Councils. Catchment areas for hospitals and other health services can cross a combination of local government boundaries.
- 3.3 A set of principles for NHS scrutiny, reproduced as Appendix A, was agreed.
- 3.4 As a result of the consultative meetings, a structure has been agreed as follows:

Overview & Scrutiny Committees

- Formal responsibility will rest with the NHS O & S Committees which each of the authorities with social services responsibility will have.
- There will be District/Borough non-executive Members co-opted onto the County Council Committee. Government guidance will be issued on the functions of the Committees.

Partnership Forum

- The O & S Committee work will be overseen and co-ordinated by a Partnership Forum covering Essex, Southend and Thurrock. This will seek to agree the annual NHS O & S Committee programme, agree or note the composition of NHS Overview & Scrutiny investigations and reporting.

Overview & Scrutiny Panels

- Individual NHS scrutinies will be conducted by O&S Panels. These will comprise Members, with Officer support, and will report into the relevant NHS O & S Committee(s). A series of guidelines has been developed for appointment of Members to the Panels, and Chairmanship.
- 3.5 Some NHS services are provided out of County, for example, in London hospitals. Guidance is awaited from Government on proposals for dealing with these situations, to avoid competitive scrutiny.
- 3.6 The working arrangements are illustrated diagrammatically at Appendix B.
- 3.7 At the consultative meetings, proposals were agreed that there should be a geographic spread of both District and County Members on the Essex O&S Committee, which results in three of the four District Members being from the North of the County.

At the Association of Essex Authorities meeting in July, it was agreed that these appointments should proceed for this year, but that next year there should be one District Member from each of Mid Essex, North Essex, West Essex and South Essex (Basildon, Castle Point and Rochford).

- 3.8 The Partnership Forum consists of one Member and one Officer from each of the social service authorities, plus one Member and one Officer representing all the Districts/Boroughs.

4 GUIDANCE FOR INVESTIGATION AND REPORTING

- 4.1 All reports are to be researched and evidence based, and produced to an objectives, methodology, evidence and discussion formula with a formal section for recommendations for action. This applies whether the reports are produced in-house or by an external consultant.
- 4.2 The objectives of the report and the evidence to be required of the NHS or any local government department (eg: social services) will be

discussed with the organisations concerned before decisions are finalised.

- 4.3 Evidence to be sought from the public will include Community Health Councils in the transition period up to their abolition, the new Commission for Patient and Public Involvement in Health, when operational locally, Patient Advice & Liaison Services in trusts, Patients Forums and the general public. Other groups may be invited as appropriate.
- 4.4 The scrutiny process will not replace the complaints procedure and cannot be used to make an individual complaint.
- 4.5 O & S Committees will conduct business in public, but could move into private session in line with the requirements of local government legislation. Evidence from vulnerable groups will be dealt with in a sensitive way.
- 4.6 The summoning of witnesses under statutory powers will need to be realistic in respect of time demands on the NHS and other organisations.
- 4.7 Recommendations produced at the end of a scrutiny project will be submitted to the relevant O&S Committee(s) and then to the relevant NHS body or other appropriate body. NHS bodies will have 12 weeks to respond

5 PILOT SCRUTINY STUDY

- 5.1 The statutory committees are expected to assume their full powers from 1 January 2003, but the scrutiny system needs to be tested before them.
- 5.2 The Association of Essex Authorities has agreed funding of up to £20,000, from AEA funds, in support of health scrutiny in 2002/3.
- 5.3 A pilot health scrutiny study is likely to focus on delayed discharges from the five acute hospitals in Essex.

This topic has the advantage of requiring the three statutory committees to work together through a joint panel and it looks at the interface between health and social services. The report is planned to be completed by November/early December.

6 RESOURCE IMPLICATIONS

- 6.1 Whilst the pilot study and other start up costs in 2002/3 are being met from AEA funds, there will be ongoing costs associated with future health scrutinies.
- 6.2 It has been proposed that for future years, the Standard Spending Assessment (SSA) be used as a basis for cost sharing for all the authorities.
- 6.3 The costs of a particular study will vary, dependent on factors such as the overall complexity and the number of authorities benefiting. For example, a study of Essex Ambulance Service will affect all Councils, whereas a study related to Southend Hospital will affect Southend BC, Essex CC, Rochford DC and Castle Point BC.
- 6.4 Estimates have shown that in these two examples, based on SSA distribution, Rochford's contribution would be £181 and £927 respectively. Proposals are still being worked through, but it is reasonable to assume that the Council might be called on to contribute to two scrutiny studies each year, and a figure of £1500 is recommended for inclusion in next year's estimates.
- 6.5 There will also be demands on both Member and Officer time, particularly for scrutinies of "local" health issues.

7 COMMENT

- 7.1 The arrangements for representation, advocacy, complaint and scrutiny in the NHS have now become complex, but the introduction of democratic overview and scrutiny is to be welcomed.
- 7.2 Essex is probably one of the most difficult areas in which to make the new arrangements work, but the process that has been undertaken and the structures and arrangements that have been put in place seek to be inclusive, and should become more so in future years.
- 7.3 Health services are very important to local people and Members have always taken a keen interest in them, although have often felt powerless to hold providers to account. It is hoped that these new arrangements will prove effective.

8 RECOMMENDATION

- 8.1 It is proposed that the Committee **RESOLVES**

- (1) That the NHS Overview and Scrutiny arrangements for Essex be noted.
- (2) That the inclusion of £1500 for NHS Overview & Scrutiny in the 2002/3 Revenue Estimates be requested. (HHHCC)

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Background Papers:

Local Authority Health Overview and Scrutiny - A Consultation Document, DoH, January 2002.

Health Scrutiny - Funding the Pilot Scrutiny. Association of Essex Authorities, 11 July 2002.

Minutes of meeting held 28 March 2002, 7 February 2002

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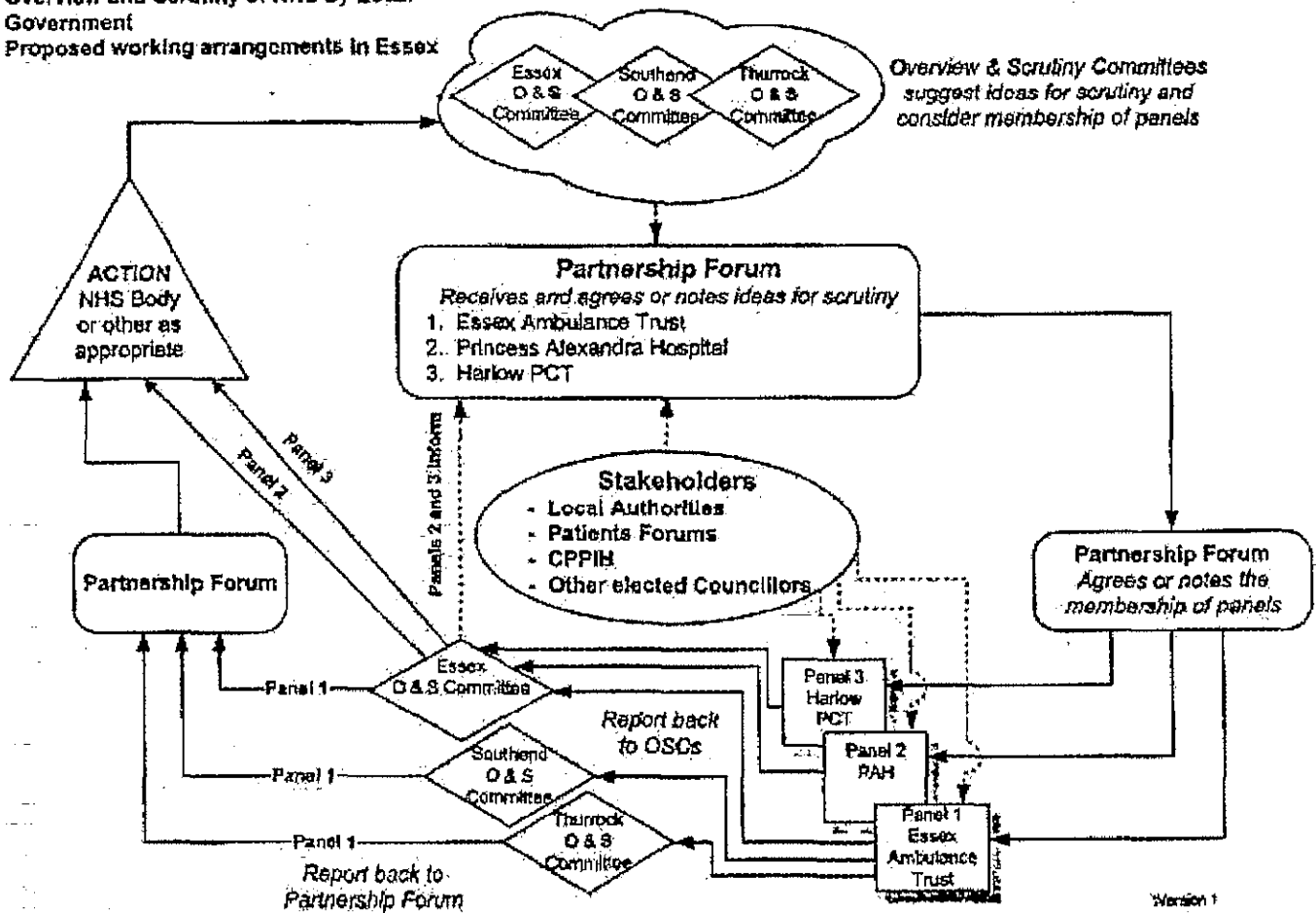
APPENDIX A

PRINCIPLES FOR NHS SCRUTINY IN THE ESSEX, SOUTHEAST AND THURROCK AREA

1. The aim of the health scrutiny work is to improve the health of the people of the area, and to tackle health inequalities.
2. Essex County Council, Southend-on-Sea Borough Council, and Thurrock Borough Council are committed to working in partnership with each other, with the district and borough councils within Essex, and with all NHS bodies, including organisations which represent patients.
3. The partners will seek to set up a framework for organising NHS scrutiny in the area so that scrutiny is undertaken at the most effective level and with a view to co-ordinating the work and avoiding duplication.
4. All partners recognise that there will be times when it will not be possible to reach consensus, on the issues to be scrutinised, and on the conclusions drawn from scrutiny. All sides therefore recognise that other councils have the right to conduct their own scrutinies, and to draw their own conclusions, when they judge that to be in the best interests of their residents. That applies both to the three social services authorities operating within specific NHS scrutiny powers, and to district and borough councils using normal scrutiny powers.
5. There is likely to be a "horses for courses" approach to deciding the participation in scrutiny panels. Scrutiny of, for example, the Ambulance Trust would require a very different approach from scrutiny of care for the elderly in a couple of districts. Similarly, some scrutinies may be lengthy and complex, whereas others will be short. The above framework, however, would help to plan the programme and ensure common standards of the work.
6. Every effort should be made to avoid "competitive scrutiny", ie two different authorities conducting separate scrutinies of the same NHS body at the same time.
7. There will need to be a clear distinction between the management of service delivery partnerships (commissioning, provider, or both) already in place with the NHS, and the scrutiny of those bodies. As the Government guidance makes clear, Members involved in executive management cannot be involved in this scrutiny work.
8. Joined up working in some areas will facilitate better communication, allowing one authority to "tap in" to any important issue which might occur outside their area but affecting their residents.
9. Partners may wish to scrutinise services provided for Essex residents outside of the area. Partners will liaise with providers outside of the County in pursuit of the best way of achieving this.

APPENDIX B

Overview and Scrutiny of NHS by Local
Government
Proposed working arrangements in Essex



Note: In the example of the PAH, the EOC OSC would set up a Panel and invite reps from the Essex Districts affected to participate, as well as inviting reps from the affected Districts of Herts or the County Council. The Panel would report back to the Essex and Herts County Councils' respective OSCs.