Appendix 1

Committee:	**Date:**
Health & Social Care Scrutiny Sub Committee	2 November 2015
Subject: Review of Health and Social Care Overview and Scrutiny Governance	**Public**
Report of: Town Clerk Comptroller and City Solicitor	**For Decision**

Summary

At its meeting on 25 November 2014, the Health & Social Care Scrutiny Sub Committee received a report highlighting how recent national developments have impacted on the way local authorities exercise their health overview and scrutiny function and, in light of this, agreed to examine whether there were any areas where its health and social care scrutiny functions could be strengthened.

The Sub Committee received the results of this review at its meeting on 5 May 2015, and agreed to evaluate the resource and governance implications. This report presents the options regarding Committee governance in light of the recommendations made in the review.

Recommendation(s)

Members are asked to:

- Consider the governance options for health and social care scrutiny functions;

- Agree the recommended option of dissolving the Health & Social Care Scrutiny Sub Committee and retaining the combined responsibility for scrutiny of health and social care under a new stand-alone Health & Social Care Scrutiny Committee;

- Agree that no Member of the Community & Children's Services Committee or the Health & Wellbeing Board should serve on the Health & Social Care Scrutiny Committee;

- In view of the proposed restrictions on the 'pool' of Members available to constitute the Health & Social Care Scrutiny Committee, consider whether this Committee should be one of those listed as an exception under Standing Order 29(3) in terms of dual Chairmanship;

- Relay these recommendations to the Community & Children's Services Committee.

Appendix 1

Main Report

Background

1. At its meeting on 25 November 2014, the Health & Social Care Scrutiny Sub Committee received a report highlighting how recent national developments have impacted on the way local authorities exercise their health overview and scrutiny function.

2. Members agreed that although there were no concerns that the City's arrangements were flawed in respect of the work already undertaken, the Health & Social Care Scrutiny Sub Committee should take the opportunity to examine if there are any areas where its health and social care scrutiny functions could be strengthened.

3. Members agreed the proposal for a two phased review, comprising firstly an initial stocktake of its current position, supported by officer's research of best practice elsewhere and then to recommend to a future meeting and, if necessary, to the Grand Committee what changes are needed to the health overview functions in the City as a result.

4. Phase I of the review was undertaken at the Health & Social Care Scrutiny Sub Committee meeting on 2 February 2015. Members were presented with a report and this was followed by a discussion facilitated by an external organisation, Shared Intelligence.

5. There was a consistent view from Members that the issues and organisations they looked at were at times 'lop-sided' towards health, compared to social care. The issue of health focus over social care was further complicated by the fact that looking at 'health' tended to mean looking at organisations external to the Corporation, while 'social care' would include the Corporation itself and organisations it has commissioned.

6. Members noted the potential for conflicts of interest and observed that, if the Health & Social Care Scrutiny Sub Committee was to begin looking more at service provision which is commissioned (or delivered) by the Corporation itself, then the review should also consider whether greater separation is needed between membership of the Sub Committee and its parent, the Community & Children's Services Committee. Members cited the guidance from the Department of Health on this issue.

7. Following the Phase I review and Sub Committee meeting in February, a working group was established, comprising two Members and two officers, to draft conclusions and recommendations. The working group also concluded that Members want health and social care scrutiny to look at a broader cross-section of all the service providers they have powers to scrutinise, and to achieve a balance between health, and social care, and between services they have looked at previously and those they have not.

8. The conclusions of this review were endorsed at the Health & Social Care Scrutiny Sub Committee meeting on 5 May 2015, and Members agreed to evaluate the resource and governance implications as a result of these recommendations.

Guidance from the Department of Health

9. The Department of Health published 'Local Authority Health Scrutiny, Guidance to support Local Authorities and their partners to deliver effective health scrutiny' in June 2014. The guidance states that:-

1.1.2 Health scrutiny is a fundamental way by which democratically elected local councillors are able to voice the views of their constituents, and hold relevant NHS bodies and relevant health service providers to account. … Local government itself is making an even greater contribution to health since taking on public health functions in April 2013 (and will itself be within the scope of health scrutiny). Social care and health services are becoming ever more closely integrated and impact on each other, with the result that scrutiny of one may entail, to a certain extent, scrutiny of the other. In many cases, health scrutiny reviews will be of services which are jointly commissioned by the NHS and local government.

3.1.24 Councils should take steps to avoid any conflict of interest arising from councillors' involvement in the bodies or decisions that they are scrutinising. A conflict might arise where, for example, a councillor who was a full voting member of a health and wellbeing board was also a member of the same council's health scrutiny committee or of a joint health scrutiny committee that might be scrutinising matters pertaining to the work of the health and wellbeing board.

3.1.29 In deciding how to operate a health scrutiny function, councils operating a committee system will need to consider issues of potential conflicts of interest. Like upper tier and unitary councils, they will need to have a health and wellbeing board whose work will be within the scope of health scrutiny insofar as it relates to the planning, provision and operation of the health service. They may also have a health and social care committee or a stand-alone health committee which makes decisions about the commissioning of public health services. A conflict might arise where, for example, under a committee system, the members of any committee of the council which is taking commissioning decisions on public health services, are also members of its health scrutiny committee or where a health and social care committee of a council operating a committee system is also acting as a health overview and scrutiny committee. The solution might be to have a separate health overview and scrutiny committee, with different members.

Options

10. We have looked at alternative ways in which scrutiny of health and social care could be undertaken, including combining one or both aspects of the work with another existing committee such as the Health & Wellbeing Board or the Crime & Disorder Scrutiny Committee respectively, or creating a new committee altogether.

11. Combining the social care scrutiny function with the work of the Health & Wellbeing Board is not recommended, given the unusual composition of that body, which includes officers and other appointees as well as elected Members. The membership includes the Chairman of the Community & Children's Services Committee, and must by law include the Director of Community & Children's Services, so the potential for conflicts of interest would not be wholly eliminated. Clearly the Health & Wellbeing Board could not also undertake the scrutiny of health care provision, because this would also lead to potential conflicts of interest. Separating out social care scrutiny from health scrutiny is not ideal given the increasing integration of those services, referred to in the guidance.

12. The same problem arises with creating an additional committee solely to scrutinise social care. This would also entail yet another commitment for Members with the associated running costs.

13. Scrutiny of both health and social care could be allocated to what is currently known as the Crime & Disorder Scrutiny Committee, to be 're-badged' as a general Scrutiny Committee. However, there is no real synergy between health/social care and crime when it comes to scrutiny. It might also be difficult to identify Members willing to serve who had an interest in both areas.

14. Having looked at the options with the Comptroller & City Solicitor and the Director of Community & Children's Services, we believe that the best option would be to retain the combined responsibility for scrutiny of health and social care, but under a new stand-alone Committee, to be known as the Health & Social Care Scrutiny Committee, with the current Health & Social Care Scrutiny Sub Committee formally dissolved.

15. At the request of the Chairman of the Community & Children's Services Committee, officers have considered the option of allowing Members to sit on both the proposed new Health & Social Care Scrutiny Committee and the Community & Children's Services Committee (albeit in a minority). However, whilst this would go some way towards mitigating any conflicts of interest, it would not prevent all potential problems and is not therefore recommended.

16. The guidance suggests that a solution is to have a separate scrutiny committee with different Members, and we therefore recommend that no Member of the Community & Children's Services Committee or the Health & Wellbeing Board would be able to serve on a new Health & Social Care Scrutiny Committee. This is consistent with existing arrangements whereby those Members of the Health & Wellbeing Board elected by the Court of

Common Council must not be Members of the Health & Social Care Scrutiny Sub Committee.

Proposals

17. Members are asked to consider the governance options for health and social care scrutiny functions and agree the recommended option of dissolving this Sub Committee and retaining the combined responsibility for scrutiny of health and social care under a new stand-alone Committee. Members are also asked to agree the principle that no Member of the Community & Children's Services Committee or the Health & Wellbeing Board should serve on the new Health & Social Care Scrutiny Committee, and to relay these recommendations to the Community & Children's Services Committee.

18. Under the provisions of Standing Order 29(3), Members are ineligible to be Chairman of more than one Committee (Ward or non-Ward) at the same time other than in the case of certain stated Committees that are included in a list of exceptions. In view of the proposed restrictions on the 'pool' of Members available to constitute the new Health & Social Care Scrutiny Committee, Members are asked to consider whether this Committee should be included in the list of exceptions under Standing Order 29(3).

Corporate & Strategic Implications

19. The proposals outlined within this report will make health scrutiny more robust and effective when monitoring the actions of health and social care providers that serve City residents. These improved scrutiny functions will support Strategic Aim 2 of the Town Clerk's Departmental Business Plan for 2013-16, to promote high standards of corporate governance throughout the organisation, and the Community and Children's Services' Departmental Business Plan priority to safeguard children and adults from abuse and neglect wherever possible and deal with it appropriately and effectively where it does occur.

Conclusion

20. The Town Clerk, Comptroller & City Solicitor, and Director of Community & Children's Services have reviewed alternative ways in which scrutiny of health and social care could be undertaken to mitigate the potential for conflicts of interest arising in the future under current scrutiny arrangements.

21. Having looked at the options in detail, we believe that the best option would be to retain the combined responsibility for scrutiny of health and social care, but under a new stand-alone Committee with a membership completely separate from that of the Community & Children's Services Committee or the Health & Wellbeing Board.

Appendices

- None.

Appendix 1

Background Documents

Department of Health, Local Authority Health Scrutiny, Guidance to support Local Authorities and their partners deliver effective health scrutiny, June 2014.

Review of Health Overview and Scrutiny Functions, Reports to Health and Social Care Scrutiny Sub (Community and Children's Services) Committee, 25 November 2014

Review of Health Overview and Scrutiny Functions, Reports to Health and Social Care Scrutiny Sub (Community and Children's Services) Committee, 2 February 2015

Review of Health Overview and Scrutiny Functions, Reports to Health and Social Care Scrutiny Sub (Community and Children's Services) Committee, 5 May 2015

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