The Oxfordshire Joint Health Overview & Scrutiny Committee

Constitution, Operating Procedures and Protocols

1. The Committee

Oxfordshire County Council, Cherwell District Council, Oxford City Council, South Oxfordshire District Council, The Vale of White Horse District Council and West Oxfordshire District Council ("the Constituent Councils") have under powers in Section 8(2)(a) of the Health and Social Care Act 2001 and associated Regulations, formed a joint committee between the Councils to discharge the functions of Oxfordshire County Council given to it under that Act. Except as set out in paragraph 5, the Committee will operate within the administrative County of Oxfordshire and will be geographically co-terminus with the boundary of the Oxfordshire Primary Care Trust in so far as it serves the County of Oxfordshire:-

The Committee will conduct all of its proceedings in accordance with the relevant Regulations and government guidance and shall operate in accordance with this Constitution and the procedures set out herein. In any case of doubt where any matter is not covered by this Constitution then the Constitution of Oxfordshire County Council shall apply, modified as appropriate.

2. Membership

The membership of the Committee and the Councils from which members are appointed ("the Appointing Councils") is set out in Section 1. Members should normally serve for a period of 4 years unless they resign or are replaced by the Appointing Council.

Councillors will not be eligible to serve on the Committee if:-

(1) they become a member of an Executive of one of the Appointing Councils or
(2) they cease to be a member of the authority which appointed them

In the event of either of these occurring, that Councillor's membership of the Committee will be terminated accordingly.

3. Co-opted Members

In addition to Councillors the Joint Health Overview & Scrutiny Committee shall, in order to assist it in its work, include in its membership up to three non-voting co-opted members. Such members might be appointed because of the personal contribution they would make to the work of the Committee or

to represent health related interests as determined by the Committee from time to time.

Co-opted Members shall normally serve for a period of 2 years. Co-opted members may serve for one further consecutive period of 2 years. In the event of a co-opted member resigning before the expiry of her/his period of office a new Co-opted member shall be appointed who shall serve for the remaining period of office. If the member no longer represents the interest(s) for which they were appointed, it shall be open to the Committee to terminate that person's membership.

4. Terms of Reference

The Committee will discharge the functions conferred by Section 21 of the Local Government Act 2000 (as modified by Section 7 of the Health and Social Care Act 2001 and associated Regulations and Guidance. The Committee may not discharge any functions other than those conferred by that legislation.

The detailed Terms of Reference of the Joint Committee as agreed by the Constituent Councils are set out in Section 2 attached. No member of the Committee may be involved in scrutinising a decision in which s/he has been directly involved.

The Committee will observe the following principles in the discharge of their functions:-

- Overview & Scrutiny will be undertaken on the basis of mutual understanding and trust between the local authorities in Oxfordshire, with the health sector and others;
- Will seek to add value by maximising the involvement of non-executive members of the County and District Councils in the overview and scrutiny of health issues which affect the population of Oxfordshire;
- Avoid duplicating other NHS and local authority inspection processes and the work of the Oxfordshire LINk;
- Will adopt a flexible approach to its ways of working as is consistent with legal requirements, be member led, open and transparent and will lead to evidence based outcomes;
- Will act independently of the constituent authorities and undertake overview and scrutiny activities on a consistent and co-ordinated basis.

5. Delegation of Functions

Subject to the requirements of the relevant Regulations and government guidance, the Committee may join with any other local authority or Health Overview and Scrutiny Committee of such authority to form a joint committee. Such body will be able to discharge such functions of that authority or overview and scrutiny committee as may be determined to further the

interests of those authorities or committees or is in the interests of the inhabitants of their areas.

The Committee may delegate such of its functions as it wishes to another local authority, subject to such delegation relating to specific issues and the requirements of the relevant Regulations and government guidance.

Establishment of Review Panels

The Committee may appoint such Review Panels of their members as they may determine to undertake and report back to the Committee on specified investigations or reviews as set out in the work programme. Appointments to such Review Panels will be made by the relevant Committee, ensuring political balance as far as possible. Such panels will exist for a fixed period, on the expiry of which they shall cease to exist.

6. Meetings of the Scrutiny Committees

The Committee shall meet at least four times each year. In addition, other meetings may be called as and when required. A Scrutiny Committee meeting may be called by the Chairman of the Committee following consultation with the Chairman; by one third of the members of the committee; or by the Committee Officer if s/he considers it necessary or appropriate.

The dates for and notices of all meetings of the Committees shall be published as required by Part VA of the Local Government Act 1972. If there is insufficient business a scheduled meeting may be cancelled by the authorised officer where the Chairman and Deputy Chairman of the Committee to consent.

Where a Councillor appointed to the Joint Committee is unable for any reason to attend a meeting s/he shall be able to be substituted at that meeting by another non-executive Councillor from the Appointing Council where that Council has rules which permit such substitution. Where there are rules, such substitution shall be in accordance with those rules. However, in the interests of maintaining continuity and the development of experience and knowledge in the functions of the Committee such substitution should be discouraged. Where substitution does take place it shall be the duty of the member of the Committee to ensure that his/her substitute is adequately briefed on the matters to be considered at the meeting. Substitution will not apply to any Review Panels appointed by the Committee.

7. Chairs/Chairwomen/Chairmen and Deputy Chairs/ Chairwomen/Chairmen

The Chairman of the Joint Committee shall be drawn from the County Council members of it and normally elected on an annual basis following the annual meeting of Oxfordshire County Council.

The Deputy Chairman of the Joint Committee shall be drawn from amongst the District/City Councillors on the Committee and elected on an annual basis immediately following the election of the Chairman.

If the Chairman and Deputy are both absent from a meeting of the respective Committee then the Councillor members of that body will elect someone to preside at that meeting from amongst their number.

Review Panels will appoint one of their members as Chairman for the life of the Panel.

8. Quorum

The quorum of a meeting of the Committee will be one quarter of the whole number of voting members, or three voting members, whichever is the greater. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. Voting

The Committee should strive wherever possible to reach a consensus view on the issues before them without the necessity for a vote. Where however the Chairman of the meeting considers that a vote is necessary in order to determine a majority view, it shall be taken by a show or count of hands of the Councillor members present. Co-opted members do not have a vote. In the event of an equality of votes, the Chairman of the Committee shall have a second or casting vote.

10. Work Planning and Programming

The development, implementation and management of the work programme of the Joint Overview & Scrutiny Committee will be the key to ensuring that health scrutiny is effective, focussed and adds value and that clear objectives are set and regularly evaluated. The Joint Committee has established a Protocol setting out how work planning and programming will be undertaken by the Joint Committee.

In undertaking activities within the work programme the Joint Committee and, subject to approval by it of a scoping template for any investigation or review, any Review Panel may hold enquiries and investigations and appoint advisers and assessors to assist them in this process. They may conduct public surveys, hold public meetings, commission research and do all other things within the law that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and

witnesses a reasonable fee and expenses for doing so. The costs of these activities will be met in accordance with paragraph 21.

The Committee and its Review Panels may go on site visits. However, in the case of premises where National Health Services are provided, no powers are contained in the legislation which would require a NHS body to comply with a request for such a visit. Members shall not therefore, in the conduct of their Scrutiny functions, make arrangements to visit such premises unless they are specifically invited to do so by appropriate NHS officers with the authority to do so. Any request for visits would need to be agreed in advance by the Committee or when approval is given to a scoping template.

11. Agenda and Minutes of Meetings

The Committee shall publish agenda for its meetings and shall maintain and publish a record (in the form of minutes) of its proceedings in accordance with Part VA of the Local Government Act 1972. The Scrutiny Committee shall consider the following business at its meetings:

(i) election of a person to preside if the Chairman and Deputy Chairman are not present
(ii) approval of the minutes of the last meeting and receipt for information of any matters arising on them
(iii) apologies for absence and any substitution in accordance with the relevant Appointing Authority's arrangements
(iv) declarations of interest
(v) any responses of the National Health Service, appointing Councils or any other body to reports of the Scrutiny Committee
(vi) consideration of any matter referred to the Committee by the Oxfordshire LINk
(vii) the business otherwise set out on the agenda for the meeting

Any items of urgent business not included on a published agenda will be dealt with in accordance with Section VA of the Local Government Act 1972.

Any member of the Committee shall be entitled to give notice to the authorised Officer of the relevant Constituent Council that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for that Committee.

The Committee shall also respond, as soon as their work programme permits, to requests from the Oxfordshire LINk to review or investigate any particular issues relating to the functions of the Committee. Where they do so, the Scrutiny Committee shall in addition to any other reporting, send their findings and any recommendations made to the LINk as soon as is practicable.

12. Reports of the Scrutiny Committee

Once the Committee has completed its deliberations on any matter, a formal report will be prepared on its behalf and, when agreed, the authorised officer will refer it and any recommendations to the National Health Service bodies and the appointing Councils as appropriate and to any other body specified by the Committee. At the same time, the report and its findings shall also be made public.

Where any investigation or review is conducted by a Review Panel, that Panel will refer its findings to the Scrutiny Committee who shall consider those and if they consider it appropriate prepare a report for submission to the appropriate health body and/or local authority and shall make the report and findings public.

In accordance with Regulation 3 of The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, a report or recommendation produced by the Committee must include:-

- an explanation of the matter reviewed or scrutinised
- summary of the evidence considered
- list of the participants involved in a review or scrutiny activity
- recommendations

The Committee may request a response from the NHS body (ies) to which the report is sent. This shall be given in writing by that body within 28 days.

13. Attendance by National Health Service Officers at Meetings of the Committee and Review Panels

The Committee and Review Panels may require an officer of a local NHS body to attend before the Committee to answer questions to enable it to discharge its functions. To this end, at least 15 working days notice in writing of the date of attendance should normally be given. The notice will state the nature of the item on which s/he is required to attend and whether any papers are required to be produced for the Committee. The officer concerned will be given sufficient notice to allow for preparation of that documentation. That officer is not required to answer any question which would disclose confidential information as defined in Regulation 5 of The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 or if s/he would be entitled to refuse to answer it for the purpose of any court proceedings. However, the Committee and any Review Panel should ask for this information to be anonymised wherever possible.

Where, in exceptional circumstances, the officer is unable to attend on the required date, the authorised Officer shall in consultation shall arrange an alternative date for attendance.

14. Attendance by Executive Members and Officers of Constituent Councils

The Committee and Review Panels may require an Executive member or an officer of any of the Constituent Councils to attend before the Committee to answer questions to enable it to discharge its functions. At least 15 days notice in writing of the date of attendance should normally be given. It shall be the duty of those persons to attend if so required. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, the authorised Officer shall arrange an alternative date for attendance.

15. Attendance By Others

The Scrutiny Committee and Review Panels may invite people other than those referred to in paragraphs 14 and 15 above to address it, discuss issues of local concern and/or answer questions. The Chairman of the Committee or Review Panel shall decide the appropriate form of participation as relevant to the issues under consideration and the individual circumstances prevailing.

16. Provision of Information by NHS Bodies and Constituent Councils

The lead NHS body has a duty under Regulation 5 of The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to provide the Committee and Review Panels with such information about the planning, provision and operation of health services as they may reasonably require to enable them to discharge their functions. However, this does not include:

- confidential information which relates to and identifies a living individual (unless that individual consents)
- disclosure of information prohibited under any legislation

In such cases, the Committee and Review Panels can require the information to be put in an anonymised form.

The Constituent Councils should equally supply such information as is requested by the Committee and Review Panels to enable them to effectively discharge their functions.

17. Duty of NHS Bodies to Consult on Substantial Developments or Variations in Provision of Service

Under Regulation 4 of The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 a NHS body must consult the Committee, where it has under consideration any proposal for a substantial development of the Health Service or a substantial variation in the provision of such service. This will not apply where:

- it is a proposal to establish or dissolve an NHS Trust or a PCT (unless that involves a substantial development or variation as above)
- it involves a proposal for a pilot scheme under the NHS (Primary Care) Act 1997
- where a decision has to be taken without allowing time for consultation because of a risk to the safety or welfare of patients or staff

The Committee may comment on the proposals by a date set by the NHS body.

The Committee may report to the Secretary of State in writing where it is not satisfied that:

- consultation has been adequate in relation to content or time allowed
- a decision has been taken without consultation because of urgency and these reasons were adequate

The Secretary of State may require the NHS body to carry out consultation or further consultation with the Committee as s/he considers appropriate. The NHS body must then have regard to the outcome of that and reconsider any decision it has taken.

Where the Committee considers that any proposal would not be in the interests of the health service in Oxfordshire, it may report in writing to the Secretary of State who may make a final decision on the proposal.

The process for dealing with such consultations is set out in a Protocol on Work Planning and Programming.

18. Public Participation

The Committee and its review panels will engage with the public in a wide range of ways as set out in this Constitution. In addition, a protocol aimed at providing a mechanism to enable stakeholders and members of the public to suggest issues for review by the Committee has been established.

19. Public Access to Meetings of the Committee

All meetings of the Committee shall be open to the press and public and the provisions of Part VA of the Local Government Act 1972 as amended by the Health and Social Care Act 2001 will apply. Where the press and public are to be excluded from any meeting then the Committee must pass an appropriate resolution complying with the requirements of that legislation. Private briefings by officers to the Committee shall not be open to the press or public.

In addition to their rights of attendance, members of the public shall be able to present a petition at meetings of the Committee provided that:

(a) the petition is relevant to the functions of the Committee and
(b) notice of the desire to present the petition and information as to its subject matter is given to the authorised Officer of the relevant Constituent Council not later than 9.00 a.m. on the day before the meeting

Any question as to the relevance of any petition shall be determined by the Chairman.

When petitions are presented the presenter shall have the right to address the Committee for no more than 3 minutes in support of the petition.

Members of the public shall also be able to request the opportunity to address meetings the Committee on items on the Agenda for a period not exceeding 5 minutes provided that:-

(a) Notice of the request and an indication of the issues to be raised are received by the authorised officer not later than 9.00 am. on the day before the meeting
(b) the Chairman shall determine the request and the time when the address shall be made
(c) at the discretion of the Chairman, members may seek clarification from the addressor of any issues raised during his/her address

20. Officers

The County Council will provide staff and specialist advice and support to the Committee and any review panels it establishes. The County Council will service and support the Committee. The Constituent Councils will each nominate a senior officer to provide support to the Health Scrutiny function.

21. Finance

The County Council will meet the operational and running costs of the Committee and any review panels it establishes. The Constituent District Councils will meet the operational and running costs of any health scrutiny review it wishes to have considered by the Committee.

22. Conduct of Members

The Codes of Conduct of their relevant Appointing Authorities shall apply to all Councillor Members of the Committee. The Oxfordshire County Council Code of Conduct shall apply to the Co-opted members of the Committee.

Each of the Appointing Authorities shall be responsible for indemnifying the Councillors appointed by them to the Committee against any claims against them as a result of lawfully discharging the functions of the Committee.

23. Annual Report

The Committee shall produce in April each year a report for the Appointing Authorities on its activities during the preceding year. That report shall also be published to health bodies and the public.

24. Review of Activities

The Committee shall periodically review their activities and evaluate the outcomes of their work plan and programme. They shall also keep under review the effectiveness of their operational protocols.

25. Termination of Arrangements

The joint arrangements may be terminated by agreement between the Constituent Councils.

SECTION 1

Membership of the Joint Health Overview and Scrutiny Committee

The following table sets out the allocation of Members to be appointed by the Constituent and other Councils:

Committee	Appointing Council and Number of Places	
Oxfordshire Joint Health Overview & Scrutiny Committee	Oxfordshire CC	(7)
	District Councils (1 place each)	(5)
	Co-opted members	(3)
		(15)

SECTION 2

Joint Health Overview & Scrutiny Committee Terms of Reference

To review or scrutinise within the following framework, health services commissioned or delivered in Oxfordshire, or jointly with any other local authority where such services are commissioned outside Oxfordshire but are delivered to the inhabitants of the County:

(a) arrangements made by local National Health Service (NHS) bodies to secure hospital and community health services to the inhabitants of Oxfordshire;

(b) the provision of such services to those inhabitants;

(c) the provision of family health services (Primary Care Trust), personal medical services, personal dental services, pharmacy and NHS ophthalmic services;

(d) the public health arrangements in the area e.g. arrangements by NHS bodies for the surveillance of, and response to, outbreaks of communicable disease or the provision of specialist health promotion services;

(e) the planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population;

(f) the arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Sections 242 and 244 of the NHS Act 2006;

(g) social care services and other health related services jointly commissioned by the County Council's Social and Health Care Directorate and local health bodies delivered by the County Council.

To receive and consider any matter referred to the Committee by the Oxfordshire LINk by virtue of powers under the Local Government and Public Involvement in Health Act 2007 sections 221-234.

To review or scrutinise any other issues related to health and the population of Oxfordshire.