

# **REPORT TO JOINT OVERVIEW AND SCRUTINY COMMITTEE: REDEVELOPMENT OF NORTHWICK PARK HOSPITAL**

## **Legal Advice Regarding the Committee's Current Status - July 2005**

### **Summary**

### **Paper A**

#### **Decision Required**

That members of the Joint Overview and Scrutiny committee (JOSC) to consider what to do next pending the postponement of the public consultation by Northwick Park NHS Trust and the review by North West London SHA.

#### **Reason for report**

At the JOSC meeting on 29<sup>th</sup> June 2005, it was resolved to defer decision on the future activity of the committee pending legal advice from the three boroughs involved. The objective of this report is to provide the JOSC with a framework to assist it reach to a decision about its future status.

#### **Benefits**

By taking legal advice and potential options on the way forward will help ensure that the JOSC is adequately informed about the alternatives available to it before deciding its formal response to future activities thereof.

#### **Cost of Proposals**

All parties will meet the associated costs for the development of the JOSC work programme within existing resources to the committee.

#### **Risks**

Delaying making decision on this issue may result in wasting available valuable time and/or, resources.

#### **Implications if recommendations rejected**

See risks above.

#### **Options to consider**

1. Suspend the activity of the committee
2. Continue but work to an amended work programme

#### **Consultation**

Not applicable to this report.

#### **Financial Implications**

There are no financial implications associated with this report.

#### **Legal Implications**

The JOSC has a responsibility to respond in a well-informed and reasoned manner to the proposals of the Brent and Harrow Primary Care Trusts and the North West London Hospitals NHS Trust.

#### **Equalities Impact**

Not applicable to this report.

## Legal Advice Regarding the Committee's Current Status

### Borough Solicitors Consulted

Brent Council	Terry Osbourne	Borough Solicitor
Ealing Council	Helen Harris	Head of Legal Services
Harrow Council	Hugh Peart	Director Legal Services

### Outline of the Legal Position

#### *BRENT COUNCIL*

The JOSC is still lawful and can still act under its terms of reference notwithstanding a possible shift in position and approach. As stated in the original minutes agreed by Brent Council, the terms of reference regarded "consultation into the rebuilding of Northwick Park Hospital", thus the SHA's consultation can be seen as a viable topic of scrutiny should the councillors choose to look at it instead of the NHS's consultation which is now on hold. As the JOSC was not set up solely to look at consultation but was also set up to consider the entire NWP rebuild, they can consider the SHA's consultation instead of the original NHS consultation. Else, they may lie dormant until the NHS takes up its consultation again at a future date.

#### *EALING COUNCIL*

There is no legal reason why the committee cannot go ahead and meet in accordance with its terms of reference. The terms of reference specifically limit the committee to six months operation, so if it meets for longer than that, a formal decision will need to be made at the start of the next meeting to extend the operating period. The JOSC can also choose to cease meeting until the consultation is resuscitated.

#### *HARROW COUNCIL*

The JOSC can continue to function and there is nothing stopping it from using this period to consolidate on the scrutiny of NWP so that it can be up to speed when the Trust restarts the public consultation. The terms of reference gave the JOSC a broad area to overview and scrutinise, even though it made particular reference to the "Better Care Without Delay", it also refers to other areas it can consider. If the announcement had used the word "withdraw", then the JOSC can question its existence. Equally, the JOSC can also decide to postpone until the public consultation restarts.

### Options for the Immediate Future of the Committee

In accordance with the legal advice received, the JOSC has two main options available as to how it wishes to continue:

1. To suspend the activity of the committee, or;
2. To continue but work to an amended work programme

## Potential Effects from Each Decision option

### 1. Suspend meetings of the JOSC until the consultation proposals are being prepared.

#### *Possible advantages*

- Resources released for other scrutiny issues
- Possibility of a clear timescale for the existence of the JOSC
- Will not risk a memory gap between collecting information now vs. remembering it for when the NHS consultation picks up again

#### *Possible Disadvantages*

- This time period could be used to build a knowledge base for the JOSC
- This time period could be used to look at other areas in the terms of reference

#### *Decisions that would need to be made*

- What action/decision from the NHS or SHA will trigger the resurrection of this JOSC if it is suspended

### 2. Continue holding meetings of the JOSC:

- a. Focusing on the SHA review in place of the concentration on the NHS consultation **and/or;**
- b. To look at other issues outlined in the terms of reference, for example focusing on the new service delivery models as previously presented **and/or;**
- c. To build up the committee's knowledge base about key drivers such as NHS finances, NHS decision-making processes (for example, development of the Strategic Outline Case into a Full Business Case)

#### *Possible advantages*

- The JOSC members can continue to liaise and work together
- The JOSC will be better informed about the purpose, outcome and implications of the SHA review (option 2a above)
- The JOSC will be better informed about background issues (options 2b and 2c above)

#### *Possible disadvantages*

- Ambiguity of timescale – It is not certain for how long this preparatory/interim work can be sustained without a loss of momentum.
- The SHA review may result to liaising with other health scrutiny panels/officers across NW London. Thus, a possibility of duplication with this wider work
- Use of resources that may be better used for more immediate or urgent scrutiny issues in each borough.

#### *Decisions that would need to be made*

- Frequency and dates of future meetings
- Focus or topics for each meeting (Revise current work programme)
- Who should be invited to which meeting
- What role if any will a co-optee play at this point