***WORKING DRAFT***

**ESSEX, SOUTHEND AND THURROCK JOINT HEALTH SCRUTINY COMMITTEE ON THE SUSTAINABILITY & TRANSFORMATION PARTNERSHIP / SUCCESS REGIME FOR MID AND SOUTH ESSEX**

**Revised DRAFT TERMS OF REFERENCE**

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| **1.** | **Legislative basis** |
| 1.1 | The National Health Service Act 2006, as amended by the Health and Social Care Act 2012 and the Localism Act 2011 sets out the regulation-making powers of the Secretary of State in relation to health scrutiny. The relevant regulations are the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 which came into force on 1st April 2013. |
| 1.2 | Regulation 30 (1) states two or more local authorities may appoint a joint scrutiny committee and arrange for relevant health scrutiny functions in relation to any or all of those authorities to be exercisable by the joint committee, subject to such terms and conditions as the authorities may consider appropriate. |
| 1.3 | Where an NHS body consults more than one local authority on a proposal for a substantial development of the health service or a substantial variation in the provision of such a service, those authorities are required to appoint a joint committee for the purposes of the consultation. Only that Joint Committee may:<br>• make comments on the proposal to the NHS body;<br>• require the provision of information about the proposal;<br>• require an officer of the NHS body to attend before it to answer questions in connection with the proposal. |
| 1.4 | This Joint Committee has been established on a task and finish basis, by Essex Health Overview Policy and Scrutiny Committee (County Council), Southend-on-Sea People Scrutiny Committee (Unitary Council) and Thurrock Health & Wellbeing Overview and Scrutiny Committee (Unitary Council). |
| **2.** | **Purpose** |
| 2.1 | The purpose of the Joint Committee is to scrutinise the Mid and South Essex Sustainability & Transformation Partnership (STP) and Success Regime (SR) and how any service changes and proposals arising from them meet the needs of the local populations in Essex, Southend & Thurrock, focussing on those matters which may impact upon services provided to patients in those areas. |
| 2.2 | The Joint Committee will also act as the mandatory Joint Committee in the event that an NHS body is required to consult on a substantial variation or development in service affecting patients in the 3 local authority areas as a result of the STP and SR. |
| 2.3 | In receiving formal consultation on a substantial variation or development in service, the Joint Committee will consider:-<br>• the extent to which the proposals are in the interests of the health service in |

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| | Essex, Southend and Thurrock;<br>• the impact of the proposals on patient and carer experience and outcomes and on their health and well-being;<br>• the quality of the clinical evidence underlying the proposals;<br>• the extent to which the proposals are financially sustainable.<br>and will make a response to relevant NHS body and other appropriate agencies on the proposals, taking into account the date by which the proposal is to be ratified. |
| 2.4 | The Joint Committee will consider and comment on the extent to which patients, the public and other key stakeholders have been involved in the development of the proposals and the extent to which their views have been taken into account as well as the adequacy of public and stakeholder engagement in any formal consultation process. |
| 2.5 | Notwithstanding any of the above, the relevant parent bodies may still exercise an overview role in relation to STP's, engaging in governance issues / strategic oversight and coordination across the STP footprints. |
| **3.** | **Membership/chairing** |
| 3.1 | The Joint Committee will consist of 4 members representing Essex, 4 members representing Southend and 4 members representing Thurrock, as nominated by the respective health scrutiny committees. |
| 3.2 | Each authority may nominate up to 2 substitute members. |
| 3.3 | The proportionality requirement will not apply to the Joint Committee, provided that each authority participating in the Joint Committee agrees to waive that requirement, in accordance with legal requirements and their own constitutional arrangements. |
| 3.4 | Individual authorities will decide whether or not to apply political proportionality to their own member nominations. |
| 3.5 | The Joint Committee members will elect a Chairman and 2 Vice-Chairmen at its first meeting, one from each authority, so that each authority is represented. |
| 3.6 | The Joint Committee will be asked to agree its Terms of Reference at its first meeting. |
| 3.7 | Each member of the Joint Committee will have one vote. |
| **4.** | **Co-option** |
| 4.1 | By a simple majority vote, the Joint Committee may at any time agree to co-opt representatives of organisations with an interest or expertise in the issue being scrutinised as non-voting members, but with all other member rights. This may be for a specific subject area or specified duration. |
| 4.2 | Any organisation with a co-opted member will be entitled to nominate a substitute member. |

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| **5.** | **Supporting the Joint Committee** |
| 5.1 | The lead authority will be decided by negotiation with the participating authorities. The lead authority may be changed at any time with the consent of Essex, Southend and Thurrock. |
| 5.2 | The lead authority will act as secretary to the Joint Committee. This will include:<br>• appointing a lead officer to advise and liaise with the Chairman and Joint Committee members, ensure attendance of witnesses, liaise with the consulting NHS body and other agencies, and produce reports for submission to the health bodies concerned;<br>• providing administrative support;<br>• organising and minuting meetings. |
| 5.3 | The lead authority's Constitution will apply in any relevant matter not covered in these terms of reference. |
| 5.4 | The lead authority will bear the staffing costs of arranging, supporting and hosting the meetings of the Joint Committee. Other costs will be apportioned between the authorities. If the Joint Committee agrees any action which involves significant additional costs, such as obtaining expert advice or legal action, the expenditure will be apportioned between participating authorities. Such expenditure, and the apportionment thereof, would be agreed with the participating authorities before it was incurred. |
| 5.5 | The non-lead authorities will appoint a link officer to liaise with the lead officer and provide support to the members of the Joint Committee. |
| 5.6 | Meetings shall be held at venues, dates and times agreed between the participating authorities. |
| **6.** | **Powers** |
| 6.1 | In carrying out its function the Joint Committee may:<br>• require officers of appropriate local NHS bodies to attend and answer questions;<br>• require appropriate local NHS bodies to provide information about the proposals and to facilitate any site visits requested by the Joint Committee;<br>• obtain and consider information and evidence from other sources, such as local Healthwatch organisations, patient groups, members of the public, expert advisers, local authorities and other agencies. This could include, for example, inviting witnesses to attend a Joint Committee meeting; inviting written evidence; site visits; delegating committee members to attend meetings, or meet with interested parties and report back.<br>• make a report and recommendations to the appropriate NHS bodies and other bodies that it determines, including the local authorities which have appointed the joint committee.<br>• consider the NHS bodies' response to its recommendations; |

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| 6.2 | In the event the Joint Committee is formally consulted upon a substantial variation or development in service as a result of the implementation of the STP, and considers:-<br>➢ it is not satisfied that consultation with the Joint Committee has been adequate in relation to content, method or time allowed;<br>➢ it is not satisfied that consultation with public, patients and stakeholders has been adequate in relation to content, method or time allowed;<br>➢ that the proposal would not be in the interests of the health service in its area<br>the Joint Committee will consider the need for further negotiation and discussions with the NHS bodies and any appropriate arbitration. |
| 6.3 | If the Joint Committee then remains dissatisfied on the above 3 points it may make comments to Essex, Southend and Thurrock Councils. Each Council will then consider individually whether or not they wish to refer this matter to the Secretary of State or take any further action. |
| 6.4 | The power of referral to the Secretary of State is a matter which will not be delegated to the Joint Committee. |
| 6.5 | Each participating local authority will advise the other participating authorities if it is their intention to refer and the date by which it is proposed to do so. |
| **7.** | **Public involvement** |
| 7.1 | The Joint Committee will usually meet in public, and papers will be available at least 5 working days in advance of meetings |
| 7.2 | The participating authorities will arrange for papers relating to the work of the Joint Committee to be published on their websites, or make links to the papers published on the lead authority's website as appropriate. |
| 7.3 | A press release may be circulated to local media at the start of the process and at other times during the scrutiny process at the discretion and direction of the Chairman and the 2 Vice Chairmen. |
| 7.4 | Patient and voluntary organisations and individuals will be positively encouraged to submit evidence and to attend. |
| 7.5 | Members of the public attending meetings may be invited to speak at the discretion of the Chairman. |
| **8.** | **Press strategy** |
| 8.1 | The lead authority will be responsible for issuing press releases on behalf of the Joint Committee and dealing with press enquiries, unless agree otherwise by the Committee. |
| 8.2 | Press releases made on behalf of the Joint Committee will be agreed by the Chairman and Vice-Chairmen of the Joint Committee. |
| 8.3 | Press releases will be circulated to the link officers. |

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| 8.4 | These arrangements do not preclude participating local authorities from issuing individual statements to the media provided that it is made clear that these are not made on behalf of the Joint Committee. |
| **9.** | **Report and recommendations** |
| 9.1 | The lead authority will prepare a draft report on the deliberations of the Joint Committee, including comments and recommendations agreed by the Committee. Such report(s) will include whether recommendations are based on a majority decision of the Committee or are unanimous. Draft report(s) will be submitted to the representatives of participating authorities for comment. |
| 9.2 | Final versions of report(s) will be agreed by the Joint Committee Chairman and two Vice Chairmen. |
| 9.3. | In reaching its conclusions and recommendations, the Joint Committee should aim to achieve consensus. If consensus cannot be achieved, minority reports may be attached as an appendix to the main report. The minority report/s shall be drafted by the appropriate member(s) or authority (ies) concerned. |
| 9.4 | Report(s) will include an explanation of the matter reviewed or scrutinised, a summary of the evidence considered, a list of the participants involved in the review or scrutiny; and an explanation of any recommendations on the matter reviewed or scrutinised. |
| 9.5 | In addition, in the event the Joint Committee is formally consulted on a substantial variation or development in service:, if the Joint Committee makes recommendations to the NHS body and the NHS body disagrees with these recommendations, such steps will be taken as are “reasonably practicable” to try to reach agreement in relation to the subject of the recommendation. |
| 9.6 | The Joint Committee itself does not have the power to refer the matter to the Secretary of State. |
| **10.** | **Quorum for meetings** |
| 10.1 | The quorum will be a minimum of 6 members, with at least 2 from each of the participating authorities. This will include either the Chairman or one of the Vice Chairmen. Best endeavours will be made in arranging meeting dates to maximise the numbers able to attend from the participating authorities. |