



**HEALTH SCRUTINY – COMMISSIONING OF SPECIALISED NHS SERVICES**  
**Report of the Director of Law and Administration**

**1 INTRODUCTION**

- 1.1 A protocol has been drawn up by South West Councils setting out the process for establishing joint health overview and scrutiny committees to respond to proposals for changes to specialised NHS services. The protocol has been developed in consultation with local authorities across the south west region and a copy is attached to this report. Councillor Andrew Gravells has been closely involved in this process and recently chaired a meeting of the South West Health Scrutiny Network when the draft protocol was discussed.
- 1.2 The purpose of this report is to recommend that the council adopts the protocol and authorises the Gloucestershire Health Overview and Scrutiny Committee to determine whether the council should participate in the review of particular services. Only proposals that are felt to be a substantial variation or development can be reviewed.
- 1.3 There is no statutory definition of what constitutes a substantial variation or development but the Department of Health guidance outlines the types of issues that might be considered at a local level. These include changes in accessibility of services, impact on the wider community, effect on patients and methods of service delivery.
- 1.4 The protocol should allow local authorities in the south west to set up joint committees quickly and easily. This will help to avoid long delays in making changes to essential services for the public.

**2 BACKGROUND**

- 2.1 Specialised NHS services are those that are provided to a relatively small number of people over a wide geographical area. To be safe and cost effective, these services need to be planned and commissioned using populations of at least 1 million, with many of the rarer conditions needing much larger planning populations.
- 2.2 The primary care trusts in the south west region have established the South West Specialised Commissioning Group to manage the commissioning proposals for specialised services. There are 35 specialised services and

the South West Specialised Commissioning Group will be considering their service plans for around 27 of these before the end of 2011. Proposals relating to the treatment of sarcoma, morbid obesity and burns are expected to be released in coming months.

### **3 HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

The Health Overview and Scrutiny Committee considered the protocol at its meeting on 14 July and made the following recommendations to full Council:

- a) To adopt the South West Councils protocol for establishing joint health overview and scrutiny committees for the commissioning of specialised NHS services.
- b) To waive the requirement for political proportionality for joint health overview and scrutiny committees established for the commissioning of specialised NHS services subject to South West Councils making every effort to include at least one member from the three main political parties on each committee.
- c) To authorise the Gloucestershire Health Overview and Scrutiny Committee to determine whether the council should participate in the review of individual specialised NHS services.

### **4 RECOMMENDATIONS**

- a) The Constitution Committee is requested to support the recommendations of the Health Overview and Scrutiny Committee (*now named the Health, Community and Care Scrutiny Committee*) and recommend the same to full Council.
- b) That full Council be asked to approve the establishment of a joint committee or committees for the purpose of receiving those specialised commissioning services which the Health, Community and Care Scrutiny Committee considers to be a substantial variation or development.

## Protocol for South-West Regional Joint Health Scrutiny Committees (commissioning of Specialised Health Services)

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### 1 Introduction

#### 1.1 Purpose

This Protocol enables the establishment and operation of regional joint health scrutiny committees in South West England. A regional joint health scrutiny committee will consider proposals for changes to specialised NHS services that have been determined to be 'substantial' variations or developments to service by the health scrutiny committees of two or more South West local authorities.

Regional joint health overview and scrutiny committees (regional JHOSCs) established under this Protocol will be administered by South West Councils (SW Councils) (previously SW LGA) (see section 2.4).

This Protocol is an agreement between the 16 Councils in the South West Health Scrutiny Network (SWHSN):

- Bath and North East Somerset
- Bournemouth
- Bristol
- Cornwall
- Devon
- Dorset
- Gloucestershire
- Isles of Scilly
- North Somerset
- Plymouth
- Poole
- Somerset
- South Gloucestershire
- Swindon
- Torbay

- Wiltshire

All 16 Councils have agreed to use this Protocol, which will be kept in readiness for implementation if and when a regional Joint Health Scrutiny Committee is required to consider a service proposal from the South West Specialised Commissioning Group that has been determined to be a substantial variation.

## **1.2 Terms**

In this Protocol:

- DH means Department of Health;
- HOSC means health overview and scrutiny committee;
- JHOSC means a joint health overview and scrutiny committee;
- LA means local authority;
- NHS South West is the Strategic Health Authority (SHA) for South West England;
- Participating authority means an LA that has decided to participate in a JHOSC;
- PCT means Primary Care Trust;
- Regional JHOSC means a regional joint health overview and scrutiny committee established under this Protocol and administered by SW Councils;
- SCG means Specialised Commissioning Group;
- SHA means Strategic Health Authority;
- SofS means Secretary of State for Health;
- SW Councils means South West Councils;
- SW HOSC means the HOSC of an individual SWLA;
- SWHSN means the South West Health Scrutiny Network;
- SWLAs means all 16 SW social services local authorities;
- SWSCG means the South West SCG, the Specialised Commissioning Group of the PCTs in NHS South West.

## **1.3 Summary**

Specialised NHS services are those which are provided in a small number of specialist centres to catchment areas of more than a million people. These services involve complex treatments or packages of care, often for relatively rare conditions and may involve the use of very specialised technology and equipment or drugs delivered by a specialist expert workforce. Some, but not all, specialised services are high cost. To be most safe and cost effective specialised services need to be planned and commissioned using populations of at least 1 million, with many of the rarer conditions needing much larger planning populations than this.

Specialised services are commissioned on a regional basis on behalf of the Primary Care Trusts (PCTs) that sit within the boundaries of their strategic health

authority, by a Specialised Commissioning Group (SCG). Some very specialised services are commissioned on a national basis by the NHS's National Commissioning Group.

Department of Health (DH) guidance published in 2006 reorganised commissioning arrangements for specialised services in England, and created 10 specialised commissioning groups, coterminous with Strategic Health Authorities (SHAs), to commission specialised services on a regional basis on behalf of the PCTs that sit within the boundaries of their SHA.

The PCTs in NHS South West (the South West SHA, which covers the same area as the local authorities of the South West Health Scrutiny Network) have established the South West Specialised Commissioning Group (SWSCG) to manage the commissioning process for specialised services.

There are 35 specialised services, and SWSCG will be considering their service plans for around 27 of these services before the end of 2011.

SWSCG will give informal advance notice of those services that may be the subject of a service change proposal (or 'reconfiguration') over the coming year to all South West Local Authorities (SWLAs) and to SW Councils.

SWSCG will make a report of the potential impact of any service change proposal to all health scrutiny committees in South West region; giving formal notification of a proposal to vary a specialised service. Each health scrutiny committee will then need to decide whether it considers that the proposal amounts to a substantial variation or development and that they wish to take part in scrutiny of the proposal.

Where two or more Councils declare a proposed service change to be a 'substantial variation' and wish to take part in scrutiny, they must form a Joint Health Overview and Scrutiny Committee which will be formally consulted by the SCG.

Where a Joint Health Scrutiny Committee is required, SW Councils will coordinate its establishment and liaise between local authorities and with SWSCG. Where the joint committee is established on a regional basis (see sections 2.4 and 3 for details), support and administration of that joint committee will be provided by SW Councils as described in this Protocol.

The Joint Health Scrutiny Committee will consider the service change proposal from SWSCG and respond on behalf of the communities of the participating authorities. The committee will meet as required and set its own agenda and timetable. The committee will consider the proposed service reconfiguration and the consultations carried out by SWSCG; may ask for further information and may require officers of SWSCG or relevant PCTs to attend. The Committee will make a report and receive a response from SWSCG. And the committee may make a

referral to the Secretary of State for Health (SofS) where it considers that the consultation had been inadequate or the proposal is not in the interests of the health service.

#### **1.4 Scope of Protocol**

This Protocol describes the establishment and operation of regional joint health scrutiny committees in South West England, for the purpose of scrutinising proposals from the SWSCG for change to specialised NHS services that have been determined to be substantial variations.

The Protocol does not replace or amend existing joint arrangements where they exist; it does not cover joint scrutiny on a sub-regional basis, ie where three or fewer authorities that are geographically adjacent wish to participate; and it does not cover discretionary joint scrutiny.

The Protocol may be used as a model of good practice by SWLAs wishing to carry out joint health scrutiny on a sub-regional or discretionary basis. However, those SWLAs must establish and administer any such joint committees themselves, as they cannot be supported by SW Councils.

**Out of region:** If a proposal from SWSCG has a significant affect on populations outside SW region, SWSCG will consult the relevant HOSCs and if they declare the proposal to be 'substantial' and wish to take part in scrutiny, they will be invited to join a joint committee established under this Protocol.

**Delegation:** A HOSC has the option of delegating some or all of its health scrutiny powers relating to a particular proposal to another HOSC or JHOSC, where it considers that other HOSC would be better able to scrutinise the proposal. The delegation should make it clear what powers are being delegated and what report back there will be and how the delegating authority will be involved in agreeing the final report. The power of referral to the SofS is passed to the delegated committee; the delegating authority loses the right of referral.

#### **1.5 Review of Protocol**

This Protocol, and the operation and effectiveness of JHOSCs under the Protocol, should be reviewed by all SWLAs within two years of its agreement.

If changes in legislation or guidance, or experience of its operation, suggest that changes may be required to the Protocol, the SWHN will facilitate discussions between all SWLAs to enable joint committees for specialised services to continue to operate and will instigate a formal review of the Protocol if necessary.

Any SWLA may propose, via the SWHSN, that the Protocol be reviewed, and a formal review will be carried out if agreed to by four or more SWLAs.

## **1.6 Legislation and guidance**

Section 7 of the Health and Social Care Act 2001, now section 244 of the NHS Act 2006, requires social services authorities to appoint an Overview and Scrutiny Committee to review and scrutinise matters relating to the Health Service in the Authority's area; and places a duty on NHS bodies to consult Overview and Scrutiny Committees about major changes to health services.

The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (the 2002 Regulations) require NHS bodies considering proposals for 'substantial' developments or variations in Health Services to consult the HOSCs of all Local Authorities affected by the proposals, so that they can decide whether they consider the proposals to be 'substantial' and wish to scrutinise them.

There is no definition of what constitutes a substantial variation or development. The DH guidance outlines the types of issues that might be considered at a local level:

- changes in accessibility of services;
- impact on the wider community;
- effect on patients;
- methods of service delivery.

Each HOSC that has been consulted must decide for itself whether it considers the proposal to be substantial and if it wishes to scrutinise the proposal.

The SWSCG is working with SWHSN and SWLAs to develop a common framework for notification and reporting to enable timely participation by all HOSCs in considering whether a service change proposal amounts to a 'substantial' variation in service for their communities.

Directions issued by the Secretary of State for Health in July 2003 require that when more than one HOSC considers a proposal to be 'substantial', those HOSCs must form a JHOSC to deal with the consultation and to respond on behalf of their communities.

If a HOSC decides that a proposal is not 'substantial', it would not be able to take part in a JHOSC. If a HOSC did not take part in the JHOSC it would not be able to exercise powers of health scrutiny with respect to the proposal, it could not choose to participate at a later stage, and it would not be able to exercise the right of referral to the SofS.

Department of Health Guidance issued in July 2003 indicates that when HOSCs have formed a JHOSC to deal with a consultation, the duty on NHS bodies to provide information or attend meetings relates only to that JHOSC. NHS bodies

have no obligation to provide information to, or attend meetings of, individual HOSCs participating in the JHOSC or those HOSCs that chose not to regard the proposals as substantial and participate in the JHOSC. And those individual HOSCs lose the right to consider the proposal individually.

If the NHS body maintains the view that the proposal is not substantial, whereas one or more HOSCs believes that it is, the JHOSC can refer it to the SofS on the grounds of inadequate consultation.

The Independent Reconfiguration Panel, which advises the SofS on contested proposals, can provide informal advice and support to HOSCs (and other interested organisations) during their consideration of proposals for significant changes to NHS services.

At the end of the joint scrutiny process, when the NHS body has responded to the report of the JHOSC, an individual participating HOSC can exercise the power of referral to the SofS, as well as the Joint Committee itself.

A HOSC which initially decides that a proposal is substantial and that it does wish to participate in joint scrutiny, can withdraw from the JHOSC at any stage.

DH guidance suggests that each Local Authority's explanation of its scrutiny arrangements should set out arrangements for joint health scrutiny and delegating health scrutiny to other Local Authority HOSCs, and their constitutions should set out the circumstances in which they will enter such arrangements.

Specifically the constitution of each Local Authority should allow for the establishment of JHOSCs and explain the process for making nominations to JHOSCs.

## **2 Process for consideration of a service change proposal**

### **2.1 Informal advance warning**

SWSCG will give informal advance notice to all SWLAs of potential service change proposals for specialised services for the coming year.

### **2.2 Formal notice of proposal**

SWSCG will send a service change proposal report to each SW HOSC, giving formal notification of a proposal to vary a specialised service; using standard headings and including localised information; and will ask each SW HOSC if they wish to declare it a substantial variation and be involved in scrutiny.



A HOSC can seek further advice from SWSCG (which may involve relevant PCTs) to advise its decision.

Each SW HOSC will decide whether or not it considers the proposal to be a substantial variation **and** whether it wishes to participate in joint scrutiny.

### **2.3 Response to formal proposal**

All SW authorities will make every endeavour to respond without undue delay, preferably within 10 weeks. If an Authority believes it will not be able to respond within 10 weeks, it should notify SW Councils as soon as possible.

At a maximum, each SW HOSC will respond to the SWSCG within 4 calendar months of the date of the formal notice from SWSCG, copy to SW Councils, stating whether or not they consider the proposal to be a substantial variation and if they wish to participate in joint scrutiny.

Note: Many SWLAs can respond more quickly, but a maximum of 4 months takes account of all SWLAs' procedures.

If necessary some Authorities have the ability to hold additional meetings to avoid holding up the process for other authorities.

When the majority of SW HOSCs have responded, SW Councils will start the process of liaison with participating councils and establishing the Joint Committee if required.

### **2.4 Form of joint committee and role of SW COUNCILS**

SW Councils will be responsible for establishing and supporting JHOSCs established on a regional basis to scrutinise proposals from SWSCG that have been determined to be substantial variations in services – option d below.

Where there is an existing JHOSC or where a JHOSC is established on a sub regional basis or for other purposes with terms of reference that allow the committee to review the service change; SW Councils will identify this situation and inform participating Authorities (according to the activities set out at options a to c below). No further support activities for these Joint Committees will be provided by SW Councils.

SW Councils will determine the form of joint committee required (if any) and act as follows:

- a. **Only one authority wishes to participate in scrutiny –**
  - There will be no Joint Committee;
  - SW Councils will advise the relevant LA and SWSCG;

- SWSCG will work directly with that one HOSC.
- b. **All participating authorities are part of an existing joint committee** (with appropriate terms of reference)–
- The existing Joint Committee will be used;
  - SW Councils will advise relevant LAs and SWSCG who wishes to participate and how the JHOSC will be established and supported;
  - JHOSC will be established and administered by the participating authorities under their existing arrangements.
- c. **Two or three participating authorities that are adjacent** –
- a locally supported Joint Committee will be established;
  - SW Councils will advise the relevant SWLAs and SWSCG on how the JHOSC will be established and supported;
  - SW Councils will seek representatives to the JHOSC according to this Protocol, section 3.1;
  - SW Councils will facilitate discussion between the participating authorities to propose a Chair and Lead Authority, using the guidance in this Protocol, section 3.3;
  - SW Councils may be asked by the participating authorities for advice in administering the joint committee using the guidance in this Protocol;
  - JHOSC will be established and administered by the participating authorities under the agreed arrangements.
- d. **Otherwise** –
- SW Councils will establish and support a regional JHOSC under this Protocol, following the procedures in sections 3 and 4.

### **3 Process for establishment of a regional joint committee**

When two or more SWLAs wish to participate in a JHOSC for scrutiny of proposals for substantial variations from SWSCG on a regional basis, and they are not part of an existing JHOSC and they are not three or fewer in number and adjacent, then SW Councils will establish a regional JHOSC in accordance with section 3 of this Protocol. Section 3 of this Protocol applies only to those regional JHOSCs.

#### **3.1 Appointment of representatives to a joint committee**

Each participating Local Authority will be represented on a JHOSC as follows:

- a. If 10 or more LAs participate in a Joint Health Scrutiny Committee – then each participating authority will nominate one Councillor to become members of the Joint Committee (total 10 to 16 members on the joint committee) and one substitute member;

- b. if 5 to 9 LAs participate – then each participating Authority will nominate two Councillors (total 10 to 18 members) and up to two substitutes; or
- c. if 2 to 4 LAs participate – then each participating Authority will nominate three Councillors (total 6 to 12 members) and up to three substitutes.

SW Councils will seek representatives from each participating Authority on the above basis.

Each Council will select its representatives according to its own procedures, which will ensure that it can nominate 1, 2 or 3 representatives as required, without undue delay to the establishment of the Joint Committee.

LAs should note that at the time of deciding to participate in joint health scrutiny, it would not be known how many representatives each authority would have on the JHOSC. Therefore, to avoid undue delay in establishing a JHOSC, LAs that appoint a pool of members would need to have a mechanism to select the appropriate number of representatives from that pool when asked by SW Councils, without having to go back to committee.

LAs, in particular those that will be nominating a pool of members in advance, should be aware that circumstances may arise where more than one JHOSC is required to be established at the same time, or that there may be an overlap in time between the operation of two JHOSCs. LAs may wish to consider appointing a larger pool of members or consider who they would appoint to a second JHOSC if for example their first named member was already fully committed to another JHOSC.

A Local Authority's selection procedures can include:

- a. appoint in advance a pool of members, specifying a priority order to identify who will be selected from the pool to be their representative(s) if either 1, 2 or 3 representatives are required; or
- b. appoint in advance a pool of members, with an agreed procedure to select their representative(s) from the pool when requested; or
- c. appoint a pool of members when taking the decision as to whether or not to declare a proposal to be a substantial variation and participate in a joint committee, specifying a priority order to identify who will be selected from the pool as their representative(s); or
- d. appoint a pool of members when taking the decision as to whether or not to declare a proposal to be a substantial variation and participate in a joint committee, with an agreed procedure to select their representative(s) from the pool when requested.

SW Councils will arrange meetings of JHOSCs so that if more than one JHOSC is operating at the same time, meetings of different JHOSCs do not clash, so that LAs may, if they wish, send the same representative(s).



### **3.2 Political proportionality**

Legislation requires representatives on JHOSCs to be politically proportional to the membership of their Local Authority unless all authorities agree to waive the requirement.

To give each LA flexibility in deciding its own representatives, for example to reflect local circumstances and to allow appropriate representation without the Committee becoming too large, and to avoid imposing constraints on how an individual authority makes its appointments to the JHOSC, the requirement for political proportionality needs to be waived by all participating authorities.

To prevent undue delay in the establishment of a JHOSC and to give each authority the flexibility to make its own appointments as it chooses, each SW LA has resolved to waive the requirement for political proportionality for membership of the JHOSC established under this Protocol to consider proposals for substantial variations from the SCG. (subject to agreement by each authority). However, each individual SWLA remains at liberty to select its representatives on the basis of its own political balance

### **3.3 Chair of JHOSC**

SW Councils will negotiate with participating authorities to propose the chair and vice chair of the JHOSC to the first meeting of the JHOSC, using the following guidance:

The proposed chair for the JHOSC will be a representative of the LA: (to be taken in order)

- a. within whose area local communities will be most affected; or if that is evenly spread;
- b. within whose area the service being changed is based; or if that is evenly spread; or
- c. within whose area the Health Agency leading the consultation is based.

If that is not clear, or there is a perceived conflict of interests requiring a neutral chair, or there are other over-riding factors, eg capacity, available resources, knowledge and expertise, SW Councils will seek a nomination for chair through negotiation with participating Authorities.

The proposal for chair and vice chair must be agreed by the first meeting of JHOSC.

#### **4 Operation of a regional joint committee**

When two or more SW LAs wish to participate in a JHOSC for scrutiny of proposals for substantial variations from SWSCG on a regional basis, and they are not part of an existing JHOSC and they are not three or fewer in number and adjacent, then SW Councils will administer a regional JHOSC in accordance with sections 4 of this Protocol. Section 4 of this Protocol applies only to those regional JHOSCs.

SW Councils will perform a coordination role; it cannot provide health scrutiny and research support. The JHOSC will have to rely on health scrutiny support and research input from the health scrutiny officers of participating Authorities, and information sought from SWSCG, relevant PCTs and other interested parties.

##### **4.1 Meeting dates and venues**

Meetings shall be held at a venue, date and time determined by SW Councils in consultation with the chair, and will take account of the following guidance:

- i. The venue should be chosen to ensure public accessibility.
- ii. SW Councils will be responsible for arranging the venue for each meeting and will ask SWLAs for use of their Committee rooms, where possible. SW Councils would not expect to be charged for the use of Committee rooms. When it is not possible to use a Committee room, SW Councils will cover the cost of hiring an alternative venue. On all occasions, SW Councils will cover the costs of refreshments.
- iii. SW Councils will seek agreement of the participating authorities.

If more than one regional JHOSC is in existence simultaneously, the implications for both participating authorities and the ability of SW Councils to provide effective support will be taken into account in determining venues.

##### **4.2 Quorum**

The quorum for any meeting of the Joint Committee shall be:

- a. representation of two thirds (rounded up to the next whole number) of the participating authorities; or
- b. where there are 4 or fewer participating authorities, at least one representative of each participating authority.

### **4.3 Substitutes**

Each participating authority may send a substitute to any meeting of a JHOSC by notifying SW Councils of the name of that substitute and of the member they are substituting for at least 1 clear working day before a meeting. A substitute shall replace the nominated representative for the whole of that one meeting of the JHOSC.

### **4.4 Terms of reference, scope, timetable**

The JHOSC is responsible for determining its workplan and timetable.

SW Councils will negotiate with participating councils to draft a terms of reference, outline project plan and timetable for the JHOSC and propose these to be agreed at the first meeting of the JHOSC.

At its first meeting the JHOSC should consider the information provided by SWSCG and any information provided by participating authorities and determine what further information and action is required to enable the JHOSC to properly consider the proposal and make its final report.

The JHOSC may agree with the SWSCG an appropriate consultation plan, to be carried out by the SWSCG and relevant PCTs, to be reported back to the JHOSC (members of the JHOSC may take part in the consultation as stakeholders, but should not be involved in carrying it out).

The JHOSC may also carry out its own investigations, by considering evidence from appropriate stakeholders, such as professionals, service users and community representatives.

The JHOSC should then:

- i. consider the impact of the proposals, or proposals as amended as a result of any further consultation, on all users and potential service users;
- ii. consider the adequacy of consultation on the proposals;
- iii. consider whether the proposals are in the interest of local residents;
- iv. agree a final report of the JHOSC's conclusions;
- v. consider the SCG's response to its final report.

As a partnership of Local Authorities, SW Councils will:

- i. administer the meetings and undertake the clerking role
- ii. liaise with officers of the SCG and appropriate PCTs to secure the provision by them of the information required by the JHOSC;
- iii. liaise with the HOSC Officers of participating authorities and solicit and

- collate advice and comments from them to advise the JHOSC;
- iv. seek witnesses on behalf of the JHOSC. SW Councils will bear any reasonable costs associated with witnesses within the SW Councils' subscriptions. However, any significant costs will be charged to LAs on the basis of a combination of a base rate and the size their population. Before the JHOSC commits itself to any significant costs in this area it will seek the agreement of the SWLAs participating in the Committee. SW Councils does not expect to be charged for costs relating to NHS or LA employees. Similarly, as Members will be representing their own LA, it is expected that their expenses will be paid by their home Authority.
  - v. draft the final report of the JHOSC;
  - vi. communicate as required on behalf of the JHOSC with the SofS, other LAs and NHS bodies and other bodies and persons as determined by the JHOSC.

The JHOSC will be terminated when either:

- a. the JHOSC is satisfied with the response from the SWSCG to its final report; OR
- b. agreement has been reached between the JHOSC and the SWSCG on the proposals for the service; OR
- c. the JHOSC has made a referral to the SofS.

#### **4.5 Notice, information and publicity**

Notice of meetings, ie date and venue, will be provided by SW Councils as soon as possible to each member of the joint committee and to the health scrutiny officer of each participating authority, to enable its entry into their Public Notices of future meetings.

The agenda papers for meetings of the joint committee will be sent in hardcopy by SW Councils at least 7 clear working days before the date of the meeting to each member of the joint committee and made available electronically to the health scrutiny officer of each participating authority, so that they can be made publicly available at least 5 working days prior to the meeting. Papers 'to follow' will not be permitted except in exceptional circumstances.

Minutes of meetings will be taken by SW Councils and supplied to each member of the joint committee and to the Health Scrutiny Officer of each participating Authority and shall be confirmed at the next meeting of the joint committee.

Each participating LA must ensure that the notice, agenda, papers and minutes are provided to appropriate persons and made publicly available within their area.



Papers of the joint committee will be posted on the website of SW Councils and can be posted on the websites of the participating Authorities as determined by that authority.

Papers, reports and evidence will be written in plain English ensuring that acronyms and technical terms are explained.

All official records of the JHOSC will be held by SW Councils in accordance with legal requirements.

Communication with the media in connection with regional JHOSCs will be handled by SW Councils in conjunction with the participating Authorities' Press Officers.

#### **4.6 Conduct of meetings**

The scrutiny process will be open and transparent in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000 and meetings will be held in public. Only information that is expressly defined in regulations to be confidential or exempt from publication will be considered in private.

The JHOSC will seek to engage appropriate people, such as service users, members of the public, community groups and their representatives, including Local Involvement Networks, in its deliberations, for example by inviting them to give evidence to the committee. Each JHOSC meeting will include, as an agenda item, the opportunity for members of the public to make a statement. The length of these statements will be at the discretion of the JHOSC Chair. The deadline for members of the public to submit notice that they wish to make a statement at a meeting of the JHOSC will be 4 days prior to the meeting. Notice should be given directly to SW Councils'.

Members of the JHOSC when taking part in any activity of, or on behalf of, the JHOSC will be governed by the code of conduct of their own Authority.

#### **4.7 The report of the JHOSC**

The primary objective of the JHOSC is to reach consensus. A statutory JHOSC must produce a single report.

At the conclusion of its deliberations, the JHOSC shall produce a single written final report that shall include:

- i. an explanation of the matter reviewed or scrutinised;
- ii. a summary of the evidence considered;
- iii. a list of the participants involved in the review or scrutiny; and
- iv. any recommendations on the matter reviewed or scrutinised.

That report shall be drafted by SW Councils and shall be agreed at a meeting of the JHOSC by consensus or by a majority of members.

Minority reports may be attached as an appendix to the main report; minority reports may be agreed:

- a. by any participating authority; or
- b. by at least 3 members of the JHOSC.

Minority reports shall be drafted by the appropriate member(s) and/or participating Authority(ies).

The report shall be sent by SW Councils to all participating LAs and SWSCG, relevant PCTs and any other bodies determined by the JHOSC.

The JHOSC shall request a response to its report from SWSCG within 28 working days, and then meet again to consider that response.

If the JHOSC is satisfied with the response from SWSCG, it will terminate the JHOSC.

If the JHOSC is not satisfied with the response from SWSCG, it should seek to reach agreement through discussion and negotiation.

If it is not possible to reach agreement, the JHOSC may report to the Secretary of State on the grounds that it is not satisfied:

- a. with the content of the consultation; or
- b. that the proposal is in the interests of the health service in the area.

SW Councils will undertake the communication with the SofS.

Participating Local Authorities may also report to the SofS on the above grounds, in which case they must undertake any such consideration and communication with the SofS themselves.

#### **4.8 Role of participating authorities**

Each participating Authority is responsible for:

- i. providing support to its representative(s) to enable them to represent their Authority and community;
- ii. briefing its representative(s) on local service issues and impact;
- iii. providing relevant local information to SW Councils for it to present to JHOSC;

- iv. communication within their Authority and with their local community;
- v. publication of notice of meetings and of other documentation as appropriate.

#### **4.9 Additional work**

The specific activities assigned to SW Councils in this Protocol will be carried out and funded by SW Councils on behalf of the JHOSC.

If the JHOSC wishes to undertake any activity over and above that described in this Protocol, and which cannot be provided by the SCG or appropriate PCTs or by the participating authorities from within their existing resources, this can be done by buying in specific support, which will be administered by SW Councils and recharged to the participating Authorities on the basis of their population. An estimate of this cost will be provided by SW Councils to each participating Authority prior to the start of the work, and invoices will be provided at the end of the agreed task, and will be paid within the standard 30-day timescale.

On the occasion that the JHOSC may decide to challenge the SWSCG interpretation of government guidelines or the decision to implement a service change proposal, legal advice will be sought from a legal team from a Local Authority. Any significant legal costs will be charged to Local Authorities participating in the JHOSC (on the basis of a combination of a base rate and the size of their population).

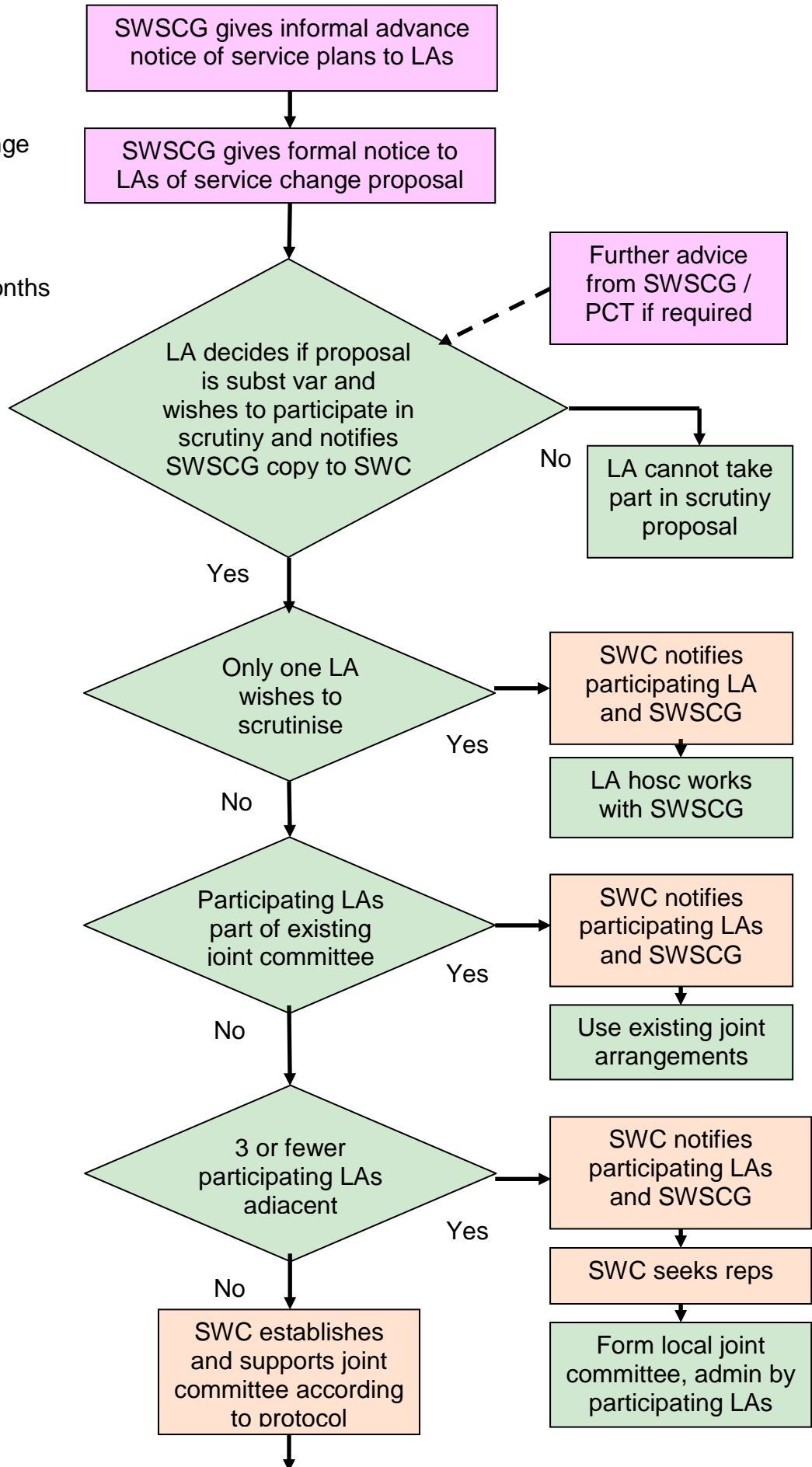
Before the JHOSC commits itself to any significant additional costs it will seek the agreement of the SWLAs participating in the Committee.

**Flowchart of joint committee process 1 (For Key, please see page 3)**

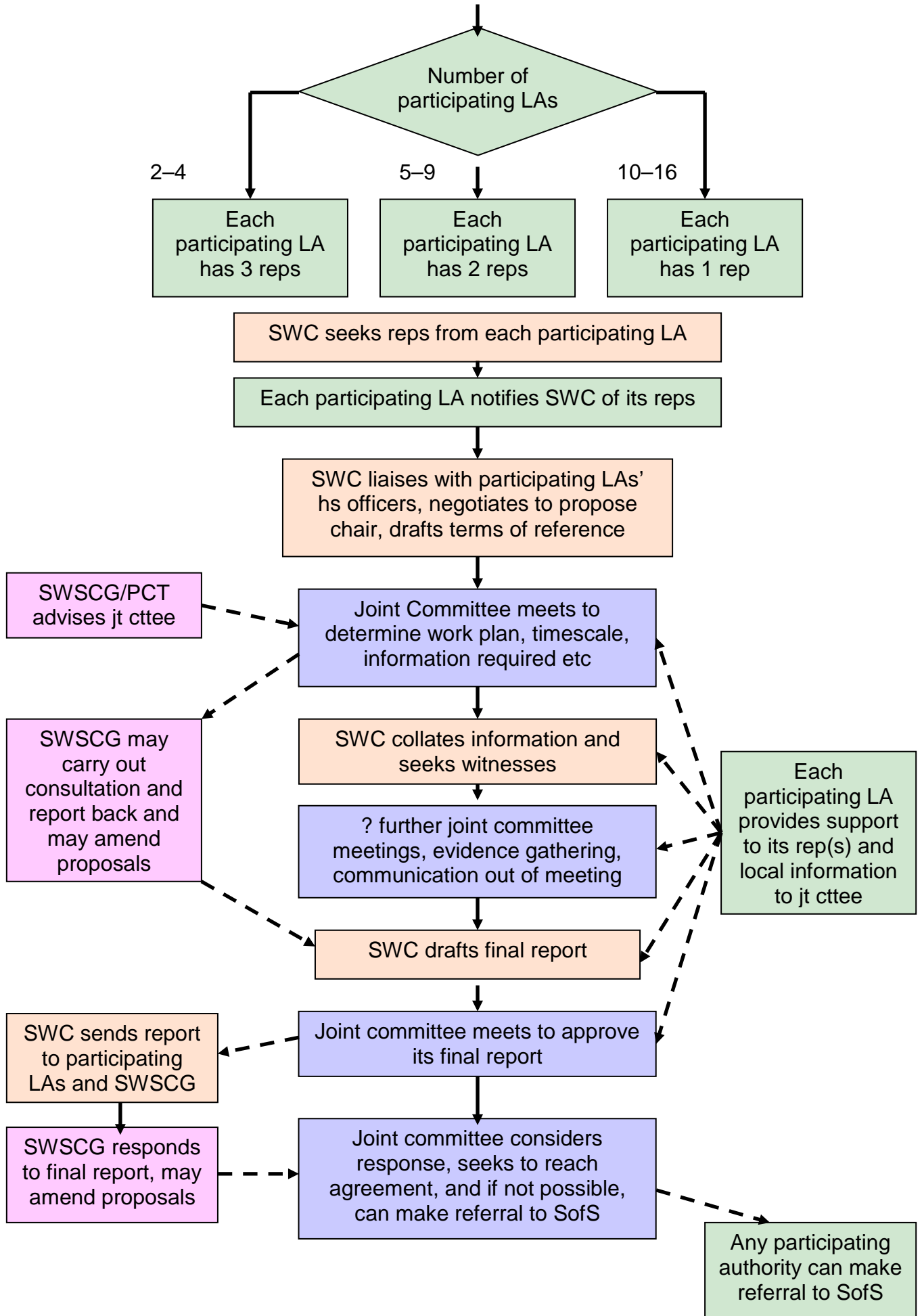
At least annually

When service change proposal made by SWSCG

Within max of 4 months from formal notice



**Flowchart of joint committee process 2**



Key

■	Action by Joint HOSC
■	Action by LA
■	Action by SWSCG
■	Action by SW Councils