

## **HEALTH SCRUTINY PROTOCOL – (AMENDED NOVEMBER 2012)**

The aim of the Health Scrutiny Protocol is to agree and set out working arrangements between the Health Scrutiny Committee (HSC), key NHS partners, Healthwatch Trafford and the Older Person's Champion on how to best deliver the duties placed on them by legislation and to deliver the best services for constituents of the borough.

It is important to ensure that such protocols are reviewed, in consultation with our health partners, every two years to ensure that they are fit for purpose.

This broad protocol includes:

Working with Local Health Bodies  
Working with HealthWatch Trafford  
Working with the Older Persons Champion  
Service Redesign/Change

### **Working with Local Health Bodies**

The commissioning and delivery of local health services is important in order to improve and maintain the health of the Borough's residents in addition to reducing health inequalities.

As such, there is value in these bodies cooperating in accordance with the following principles:

- Develop a shared understanding of each other's roles, responsibilities and priorities;
- Exchange information gathered to avoid duplication, to share learning and to inform each other's programme of work and undertake joint work, where appropriate;
- Work in a climate of mutual respect and courtesy;
- Respect each other's independence and autonomy.

This protocol has been designed to guide the relationship between Trafford's HSC, local NHS bodies and Healthwatch Trafford to aid communication, co-operation and understanding.

### **Requests for Information**

The provision of timely and accurate information is essential in order to allow Health Scrutiny Members to discharge their functions effectively. All requests for information will be made by those officers providing support to Health Scrutiny Members only. This is to provide assurance to partners that the request is legitimate and appropriate.

In order to provide information relating to the planning and operation of local health commissioners and providers that the HSC requires so that it can carry out its functions. This may include commenting on NHS Plans, proposals and consultations, and carrying out health scrutiny reviews (excluding patient and NHS employee identifiable personal information or information that is non disclosable by law) -

**That Trafford Clinical Commissioning Group, University Hospitals South Manchester, Central Manchester University Hospitals, Greater Manchester West Mental Health and Pennine Care FT will -**

Provide the HSC with that information within 1 calendar month;

Respond to HSC reports within 2 calendar months;

Provide reports to the Committee by the deadline set, typically 5 clear days prior to the meeting.

**That the HSC will –**

Co-ordinate the development of a rolling work-programme in consultation with NHS Trusts and patient representative groups.

Arrange for agendas, reports and minutes to be distributed to the CCG and the Trusts, where appropriate, at least 5 working days before the meeting

Invite the Trust and CCG representatives to meetings giving adequate and appropriate notice. The HSC acknowledges that some Members of the CCG are practicing GP's and that they will need to ensure appropriate practice cover. To this end, the HSC will ensure, as far as is practically possible, that as much notice is given to require CCG attendance at HSC meetings. This also places a responsibility on the CCG to acknowledge their responsibility to attend HSC meetings and make appropriate arrangements.

Provide a lead officer/single point of contact for all the Trusts.

### **Working with HealthWatch Trafford**

This protocol is designed to guide the relationship between Trafford's HSC and HealthWatch Trafford to aid communication, co-operation and understanding.

The HSC and the Healthwatch Trafford share common aims of improving health, reducing health inequalities and improving access to, and the quality of, local health and social care services. As such there is value in the bodies co-operating in accordance with the following principles.

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- Develop a shared understanding of each other's roles, responsibilities and priorities;
- Exchange information gathered to avoid duplication, to share learning and to inform each other's programme of work and undertake joint work, where appropriate;
- Work in a climate of mutual respect and courtesy;
- Respect each other's independence and autonomy.

### **Requests for Information**

#### **Healthwatch Trafford will -**

Provide information relating to patient experience and associated matters which enable the HSC to carry out its functions (excluding patient and Healthwatch Trafford employee identifiable personal information or information that is non disclosable by law).

#### **That the HSC will –**

Co-ordinate the development of a rolling work-programme in consultation with NHS Trusts and patient representative groups.

Arrange for agendas, reports and minutes to be distributed to Healthwatch Trafford and the Trusts, where appropriate, at least 5 working days before the meeting

Invite the Healthwatch Trafford representatives to meetings giving adequate and appropriate notice.

Provide a lead officer/single point of contact for Healthwatch Trafford.

### **Referrals from Healthwatch Trafford to the HSC**

The Local Government and Public Involvement in Health Act 2007 legislated the referral of social care matters to the HSC from Healthwatch Trafford.

In order to fulfil this duty the HSC will –

Acknowledge receipt of the referral within 20 working days and consider the matter at the next available HSC meeting

Keep the referrer informed of the committee's actions in relation to the matter.

Decide whether or not to exercise any of its powers such as, but not exclusively, in relation to requesting information of health bodies, requesting

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the attendance of key officers at a future HSC or writing to the secretary of state.

Arrange for agendas, reports and minutes of the HSC, where appropriate, be dispatched to the Healthwatch Trafford, at least 5 working days before the meeting.

### Referrals from the HSC to the Healthwatch Trafford

On occasion, the HSC may become aware of an issue that is best placed to progressed by Healthwatch Trafford.

In order to support the undertaking of this work Healthwatch Trafford will -

Acknowledge receipt of the referral within 20 working days and consider the matter at the next available Healthwatch Trafford meeting;

Keep the referrer informed of the Healthwatch Trafford actions in relation to the matter;

Advise the HSC in writing as to whether the Healthwatch Trafford intends to take further action in response to the referral, or the reasons for no further action being taken.

### Working with Trafford Council's Older People's Champion

The Older People's Champion is an elected Member who is appointed to improve older people's services and are willing to work together and use their influence to stand up for the interests of older people. They have a role in ensuring older people have access to information about local services and plans for older people. All appointed representatives will be committed to rooting out age discrimination in access to treatment and services helping to improve health outcomes for residents.

The Older People's Champion will endeavour to keep the HSC updated at regular intervals with any information relating to the commissioning or delivery of health and social care services which negatively impacts on older residents.

In order to put the relationship between the Older Person's Champion and the HSC on a more formal footing it will follow a similar protocol to that of referrals to Healthwatch Trafford.

### Referral from the Older People's Champion to the HSC

In order to support the undertaking of this work the HSC will -

Acknowledge receipt of the referral within 20 working days and consider the matter at the next available HSC meeting;

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Keep the referrer informed of the HSC actions in relation to the matter;

Advise the Older Person's Champion in writing as to whether the HSC intends to take further action in response to the referral, or the reasons for no further action being taken.

### Referral from the HSC to the Older People's Champion

In order to support the undertaking of this work the Older People's Champion will -

Acknowledge receipt of the referral within 20 working days and consider the matter with the support of colleagues at the Council and amongst NHS partners;

Keep the HSC informed of their actions in relation to the matter;

Advise the HSC in writing as to the initial outcome of their inquiry and, with the agreement of the HSC Chairman, place the matter on the next available HSC agenda.

### Service Redesign/Change

A significant part of the liaison between the HSC and local health bodies and Healthwatch is in respect of changes to health services. The following sets out a joint protocol to identify 'substantial variation/development' and to approve public engagement activity in relation to NHS service change

The HSC plays a key role in scrutinising NHS service change and ensuring that local Trusts engage appropriately with local people. Additionally, it performs a specific function by identifying whether a service change should be considered a 'substantial variation'. This paper proposed the development of a process, which ensures that engagement around NHS service variations meets legislative requirements and provides sufficient assurance of this to the HSC, HealthWatch Trafford and Trafford CCG.

Legislative Context:

The statutory requirement for involvement of patients and the public in the development of local health services is well established. Under section 242 (1B) of the National Health Service Act 2006 every "relevant English body" (which for the purposes of this section means (i) a Strategic Health Authority (ii) a Primary Care Trust (iii) an NHS trust or (iv) an NHS foundation trust is placed under the following obligation in respect of public involvement and consultation:

*"Each relevant English body must make arrangements, as respects health services for which it is responsible, which secure that users of those services,*

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*whether directly or through representatives, are involved (whether by being consulted or provided with information, or in other ways) in—*

- (a) The planning of the provision of those services,*
- (b) The development and consideration of proposals for changes in the way those services are provided, and*
- (c) Decisions to be made by that body affecting the operation of those services”.*

This general obligation to consult is qualified as follows:

*Subsection 242 (1B)(b) applies to a proposal only if implementation of that proposal would have an impact on –*

- (a) the manner in which the services are delivered to users of those services, or*
- (b) the range of health services available to those users.*

*Subsection 242 (1B)(c) applies to a decision only if implementation of the decision (if made) would have an impact on –*

- (a) the manner in which the services are delivered to users of those services, or*
- (b) the range of health services available to those users.*

Additionally, Regulation 4 of the HSC Regulations provides that where a “*local NHS body...has under consideration any proposal for a substantial development of the health service in the area of a local authority, or for a substantial variation in the provision of such service, it shall consult the overview and scrutiny committee of that authority*”.

### **‘Substantial variation’/ Substantial development?**

There is no specific definition of substantial variation or substantial development outlined in the legislation. Instead it is recommended that the local NHS and the HSC should work to the same definition of substantial variation so that judgements about the need to consult are likely to be similar. It is worth noting that whether a particular change is considered a substantial variation or not, NHS Trusts must still meet their duty to involve as set out in Section 242 of the NHS Act.

Local Authority Scrutiny regulations recommend that the following are taken into account when considering whether a development or variation is ‘substantial’:

- Changes in accessibility of services
- The impact of the proposal on the wider community
- The degree to which patients are affected
- Changes to service models and methods of service delivery

The former NHS North West had indicated that they believed that local Primary Care Trust’s should be the key local NHS body to make the judgement. They have also provided some guidance on what constitutes ‘major’ service change in their view. Proposals requiring former Strategic Health Authority approval included:

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- Directly affecting populations in more than one PCT area (including NW-wide and multiple SHA-wide service changes e.g. specialist services);
- Involving capital investment which required SHA approval;
- Subject to formal public consultation (as agreed with Overview and Scrutiny Committees);
- Likely to generate significant public, political and/or media interest.

The openness of the above guidance makes defining substantial variation less of a scientific exercise and more of an intuitive judgement call. Therefore, rather than producing a restrictive definition, it makes more sense to develop a process which:

- Demands information from the relevant NHS Trust prior to a decision being made;
- Identifies Trafford CCG and Healthwatch Trafford as the appropriate bodies for assessing the necessary level of engagement;
- Provides the HSC with the ability to monitor, and be assured of, the engagement activity undertaken by local health bodies.

### **Proposed process:**

**Stage 1:** Prior to a decision regarding service change being made, the Trust planning the variation should complete the pro-forma in Appendix 1 and send to Trafford CCG and Healthwatch Trafford for consideration.

**Stage 2:** Trafford CCG and Healthwatch Trafford come to a conclusion within 10 working days on the following issues:

*Decision 1: Is it a substantial variation/ development?*

*Decision 2: Is the service variation exempt from Section 242?*

*Decision 3: Is the engagement plan sufficient to meet Section 242 standards?*

**Stage 3:** Trafford CCG to include summary of all service variations presented to it in the preceding month in an NHS Update paper presented to HSC.

HSC to:

*Decision 1: Note the decisions*

*Decision 2: Identify which, if any, of the service variations need to come before HSC?*

*Decision 3: When should they be considered and in what form?*

**Service Change pro-forma**

**Organisation**

**Lead manager and contact details**

**Description of service variation**

**Reasons for service variation/ Case for Change**

**Do you consider the service change to be a 'substantial variation or development'?**

For each section below, please identify what action is being taken to alleviate the impact of any changes.

<p><b>Impact of Change</b></p>	
<p><b>Changes in Accessibility</b></p>	
<p><b>Impact on the Wider Community</b>          Issues to take into consideration - the effects the proposal might have in terms of levels of inconvenience, the impact on a person's health, or the impact on a person's ability to lead a full life          Issues to take into consideration – The effects of the proposal on transport infrastructure, community safety, the local economy, environment and regeneration need to be assessed</p>	
<p><b>Number of Patients/Carers Affected</b>          Issues to take into consideration - The number of patients/carers affected by the proposal, the proportion of the population in the area covered by the change or in the population group effected by the change, or of the relevant population group affected</p>	
<p><b>Changes in Methods of Service Delivery</b>          Depending on the proposal, the effects might be a change in the physical</p>	



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environment where a service is delivered, a change in the practitioner delivering the service or a change in terms of levels of comfort, levels of convenience, speed of recovery or outcome in terms of a person's health	
<b>Impact on how other Services are delivered</b> This relates to any financial impact on other services (i.e. Community Services) and the sustainability or availability of other services	
<b>Impact on different communities</b> Does the proposal affect some communities more than others? This could be geographical communities or communities of interest?	
<b>Proposed Engagement</b> Please include details of engagement carried out and proposed activity	

**Signed**  
**Date**