

**Hampshire County Council
Health Overview and Scrutiny Committee
Report on Progress Spring 2012 to Spring 2013**

Introduction from the Chairman

This report provides an update on the work of the Health Overview and Scrutiny Committee (HOSC) in 2012/13. I would like to thank Committee Members and officers for their commitment and hard work during another challenging and busy year, and for their input to the health scrutiny work undertaken by the 2009 - 2013 administration.

The previous year has witnessed a complete reorganisation in the way healthcare is commissioned in the NHS, following the Health and Social Care Act 2012. Local Authorities were also affected by this Act – upper tier councils such as Hampshire are now responsible for public health, commissioning Local Healthwatch, and co-ordinating Health and Wellbeing Boards. Primary Care Trusts and Strategic Health Authorities are no longer responsible for commissioning health services for our population; this is now undertaken by (GP led) Clinical Commissioning Groups and Area Teams of NHS England. The Committee has successfully worked with the emerging NHS bodies to ensure that they continue to involve the public and patients in the planning, provision and operation of local health services.

The Health and Social Care Act also saw the discontinuation of Local Involvement Networks (LINKs), and their replacement with Local Healthwatch. Prior to this time, the LINK continued to be represented at the HOSC meetings by the Chairman, Frank Rust. The

Committee wishes to thank Frank and his Network for their contribution to the HOSC work programme over the past four years. The balanced and thoughtful approach taken by the LINK to topics that the Committee has explored in this time has been invaluable. We look forward to working with Local Healthwatch from April 2013.

The Committee has continued to seek to influence national issues affecting local services, contributing evidence to the children's congenital heart surgery and adult congenital heart disease reviews. The Committee has also scrutinised local issues attracting significant press and public interest, such as vascular surgery, proposals for future service provision at Chase Community Hospital and changes to both adult and older people's mental health services.

The Committee contributed to the Department of Health's consultation on health scrutiny powers, and were pleased to see that our contribution matched that of the Centre for Public Scrutiny, the body representing HOSCs at a national level. The secondary legislation resulting from this consultation has now been laid before parliament, and the HOSC have incorporated changes into our policies and frameworks.

The Committee's responsibilities continue to be, in relation to service changes, whether the NHS Body has:

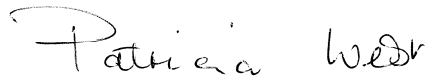
- Engaged and involved stakeholders in relation to changes; and,
- Evidenced that the changes proposed are in the interest of the population served.

The report sets out:

- Health Scrutiny in context (Section 1)
- The achievements of the Committee over the last year, (Section 2)
- The outline work programme for 2013/14 (Section 3)

Further details on the work of the Committee can be found on our website at:

<http://www3.hants.gov.uk/scrutiny/health-overview-and-scrutiny-committee.htm>



Cllr Pat West
Chairman, Health Overview and
Scrutiny Committee

Section 1: Health Scrutiny in Context

The Health Overview and Scrutiny Committee in 2012-13 held the Local Government statutory responsibility for health scrutiny powers. This responsibility is intended to ensure that decisions about health services are taken with due regard to the people affected. The legislative framework within which the Committee functions, recently updated, allows Members to consider any aspect of health that affects the population of Hampshire. It also places very specific duties on the NHS or relevant health service providers with regard to consultation, information and responses to any recommendations made by the Committee.

The Committee is a statutory consultee on any potential substantial change being considered by the NHS and has the power to refer contested decisions about health services to the Secretary of State for Health. A summary of the main powers of the Committee, and the duties placed on the NHS, is attached at Appendix One.

Arrangements are in place to allow these powers to be delegated to allow for specific proposals affecting the health of local people in multiple authority areas to be considered by a joint committee.

As its role has evolved, the Committee has been mindful that it is not the only, or even the main form of engagement between the NHS and local government. Services are increasingly commissioned in partnership

across health and social care and this is likely to increase as new policy initiatives are implemented.

The Hampshire LINK and partner councils have each had a role to play in shaping the Committee's understanding of local issues, providing information about issues relating to health and health services. Similarly, the Committee needs to have a constructive working relationship with internal service providers, the Cabinet and other scrutiny functions undertaken by local authorities and public agencies.

Local Involvement Networks (LINKs) in 2012-13 were responsible for representing communities and providing opportunities for them to influence the development of the health and social care bodies that service their areas. LINKs had the right to visit some services, and make reports and recommendations to the Committee.

The last Annual Report outlined the changes that were occurring in the NHS to move to that described in the Health and Social Care Act 2012 by the Coalition Government. These changes have now come to fruition, with the previous year witnessing a complete reorganisation in the way healthcare is commissioned in the NHS. Primary Care Trusts and Strategic Health Authorities are no longer responsible for commissioning the majority of health services for our population; this is now led by GP Clinical Commissioning Groups and Area Teams of NHS England. The Committee worked with all emerging NHS organisations to

ensure that they continue to involve the public and patients in the planning, provision and operation of local health services.

Each upper tier local authority in the last year has taken the lead on Public Health, and has established a Health and Wellbeing Board to ensure:

- Joined up commissioning by Clinical Commissioning Groups and social care commissioning
- Oversight and assurance so that the Joint Strategic Needs Assessment (JSNA) is translated into a Joint Health and Wellbeing Strategy (JHWS)
- That Clinical Commissioning Groups and the Local Authority base their commissioning plans on the JHWS
- That Clinical Commissioning Groups execute their commissioning in accordance with their plans
- That there is increased local democratic legitimacy and that the interests of the public are represented.

The last year has seen the publication of the Francis report on failings at the Mid Staffordshire NHS Foundation Trust. As part of the Government's response to the 290 recommendations made during this review, it has been announced that all applications for Foundation Trust status have been put on hold whilst additional safeguards are added to the process. Two Trusts servicing Hampshire patients (Portsmouth Hospitals NHS Trust

and Solent NHS Trust) are yet to receive Foundation Trust status.

The Francis report and health-related news stories featuring prominently in headlines in 2012-13 have helped to ensure that the NHS and NHS service quality remain a top priority both locally and nationally. It is therefore more important than ever for the Committee to maintain its strong network of working relationships, and to work closely with new organisations to ensure that the NHS and relevant health service providers are aware of their responsibilities to health scrutiny. This means that to the fullest extent possible, the needs of local populations are taken into account in the development of health services in their areas. The central importance of local need in the development and reorganisation of health services has been a recurrent theme as the work programme has rolled forward and remains a central feature of the work of the Committee.

Emphasis has been focused on ensuring that the work programme is effectively targeted to enable the scrutiny process to be both credible and influential. The approach to health scrutiny adopted by the Committee therefore places emphasis on ways of working that are:

- Challenging but not confrontational
- Evidence based
- Able to improve service delivery

The role of the Committee in 'support and challenge' has been

established, and relationships with NHS organisations and relevant health service providers have continued to develop positively. The Government's drive to remove £20bn from the system by 2015 will continue to put additional pressure on local health services to find savings; the potential impact these may have on local people makes it vital that the Committee maintains a constructive dialogue with these organisations and other partners.

The forward work programme of the Committee set out in Section 3 of this report takes into account the work that the Committee **must** do, specifically:

- Respond to proposals to substantially vary NHS services in the area of the Committee
- Manage referrals from Local HealthWatch (and other partner organisations)

In addition, it identifies issues that may benefit from a more in-depth thematic review. To make the best use of the resources available to the Committee, the following four criteria have been developed to guide Members when selecting topics for review:

- Capacity to influence and improve the service under consideration
- Timeliness and relevance to local health services
- Issues not under consideration elsewhere
- Issues not subject to other scrutiny or performance monitoring activities

The approach to health scrutiny adopted by the Committee and described in the following work strands is drawn from national guidance and discussions with partner organisations. A summary of the relevant sections of the Guidance is included at Appendix Two.

The Work Programme of the Committee draws together four main work strands:

- *Relationships and Communication:* From its inception the Committee has been aware of the need to be able to work in partnership with other agencies when discharging its responsibilities in relation to health overview and scrutiny. Experience reinforces the importance attached by the Committee to ensuring that an extensive network of key contacts is built and maintained to support a challenging but constructive approach to health overview and scrutiny.
- *Proposals to vary or develop NHS services:* Any proposals for service change from the NHS or relevant health service providers should be discussed with the Committee at an early stage, in order to agree whether or not the proposal is considered substantial. In determining if a proposal is substantial, the Committee considers the impact of the change on patients, carers, and the public who use, or have the potential to use a service.
- *Reviews of Health Services:* This strand of work was identified by the Committee to

provide thematic cross boundary reviews of health services. These consider specific areas or services that are of interest or concern to the Committee and identify opportunities for improvement.

- *Health Inquiries*: The 'health inquiries' work strand was designed to provide the Committee and partner organisations with a route through which issues could be raised and acted on outside the review process. This mechanism allows the Committee to maximise opportunities to influence and improve health services without recourse to a full review as well as providing a means by which developments in health can be drawn to the attention of the Committee.

Section 2: The Achievements of the Health Overview and Scrutiny Committee in 2012/13

The Committee continues to provide an active and constructive influence in the planning and delivery of health services for the people of Hampshire. The Committee maintains its commitment to taking an independent, impartial approach to considering evidence and ensuring that the views of all relevant stakeholders are taken into account. For example, the HOSC has been able to recommend the creation of Member-led local panels to help monitor and resolve issues relating to mental health services and community hospitals. Local Members have also been involved in local primary care moves – such as the re-location of

GP surgeries. These have provided a context in which local stakeholders can engage with NHS managers in open and constructive communication, with input from local Members, and HOSC advice and support.

Relationships and Communication

Constructive and open relationships with NHS and other partner organisations are essential to the ongoing work of the Committee and to maintaining trust. The continuing period of increased financial challenge has focused NHS organisations on reconsidering previous plans and aspirations, whilst at the same time the ability of commissioning organisations in particular to engage in medium to long term planning is severely restricted by either their limited lifespan (Primary Care Trusts) or newness to the system (Clinical Commissioning Groups). Provider organisations are either undergoing reorganisation or are working towards the Government's aspiration for them to become Foundation Trusts. Good communication between the HOSC and NHS Trusts in Hampshire and the wider Wessex and historic South Central areas is well established, and is particularly important when organisations are stretched by continuing financial pressures and organisational change.

Members receive presentations and reports at HOSC meetings that keeps the Committee well informed about health issues and plans that affect the people of Hampshire.

The HOSC values and continues to build on its working relationships with district councils, four of which are represented on the Committee as Co-opted Members nominated from the districts via The Hampshire and Isle of Wight Local Government Association.

The Hampshire LINK and the Chairmen of the Portsmouth, Southampton and Isle of Wight HOSCs had standing invitations as formal observers at HOSC meetings in 2012-13. This invitation will be extended to Local HealthWatch in 2013, once this organisation is established.

Referrals from stakeholders continue to play an important role in informing the Committee of emerging issues. This feedback is an important element in confirming that NHS bodies or relevant health service providers have engaged properly with patients and relatives or carers when considering service change.

In the context of Clinical Commissioning Groups, NHS England (formerly the NHS Commissioning Board) and Health and Wellbeing Boards, all of which will continue to explore their new roles in 2013/14, the development of effective working relationships with an increasingly wide range of stakeholders will continue to be essential for the Committee.

Proposals to Develop or Vary NHS Services

Proposals to develop or vary NHS services have continued to come to the HOSC throughout the year. All proposals for varying NHS services are considered by the Committee

and any associated reports or comments are included with agenda papers to ensure Members are properly informed about proposals to change health service provision.

Responses to consultations and other ***proposals to develop or vary*** services since April 2012, have included:

Southampton, Hampshire, Isle of Wight and Portsmouth Primary Care Trust Cluster (*abolished from April 2013*):

- Proposals for changes to service provision at Chase Community Hospital.
- Proposals for changes to vascular services.

South Eastern Hampshire Clinical Commissioning Group:

- Proposals for changes to service provision at Chase Community Hospital.

Southern Health NHS Foundation Trust:

- Proposals for changes to Adult Mental Health services in Hampshire.
- Proposals for changes to Older People's Mental Health services in Hampshire.
- Proposals for changes to service provision at Chase Community Hospital.

Hampshire Hospitals NHS Foundation Trust:

- Update on Hampshire Hospitals Maternity Centre (previously Andover Birth Centre).

Hampshire County Council Adult Services:

- Update on the multi-agency work in relation to the use of

section 136 of the Mental Health Act.

Hampshire Constabulary

- Update on the multi-agency work in relation to the use of section 136 of the Mental Health Act.

University Hospital Southampton NHS Foundation Trust:

- Relocation of elderly care beds.
- Managing bed space at Southampton General Hospital.

National reviews and consultations:

- Children's Congenital Heart Surgery.
- Adult Congenital Heart Disease.
- Health Scrutiny Regulations Consultation.

Health Inquiries

Southampton, Hampshire, Isle of Wight and Portsmouth Primary Care Trust Cluster (*abolished in April 2013*):

- Alton Community Hospital – temporary closure of ward for maintenance works.
- Fordingbridge Hospital – building works and future of the radiology service.
- Implementation of NHS reforms.
- NHS 111 roll out update.
- Fast Track and Continuing Healthcare – update on internal review.
- Quality handover – update on Primary Care Trust's Quality Handover Document.

Hampshire County Council Adult Services:

- Health and Wellbeing Strategy Consultation.

- Fast Track and Continuing Healthcare – update on internal review.

Hampshire County Council Children's Services:

- Provision of short break service for children and young people with complex health needs.

Hampshire Hospitals NHS Foundation Trust:

- Development of model of service provision across multiple sites.
- Update on merger to form Hampshire Hospitals NHS Foundation Trust.
- Implementation of the model of care at the Andover Birthing Centre.

Portsmouth Hospitals NHS Trust:

- Maternity services in the South East – update on model of care.

Calleva Clinical Commissioning Group (*now titled North Hampshire Clinical Commissioning Group*)

- Odiham Cottage Hospital – progress with model of care.

South Central Ambulance Service NHS Foundation Trust:

- Estates strategy – future location of ambulances and ambulance stations in South East Hampshire.
- NHS 111 roll out update.

Royal Bournemouth & Christchurch Hospitals NHS Foundation Trust

- Temporary change in service for oncology inpatients.

NHS Dorset/NHS Bournemouth & Poole

- Extension of choice of provider for community endoscopy and dermatology service.

University Hospital Southampton NHS Foundation Trust:

- Relocation of elderly care beds.

Reviews of Health Services

Fluoridation: The Committee continues to have an interest in this review which concluded in late 2008. The report consulted a wide body of literature, coming to the conclusion that available evidence indicated the possibility of adverse health associated with the addition of fluoride to drinking water, whilst health benefits may have been overstated. The Full Council unanimously agreed with the Review's recommendation in November 2008 to oppose the proposal to add fluoride.

The Strategic Health Authority in 2012-13 continued to confirm to the HOSC and County Council its intention to implement the decision to fluoridate the drinking water supplies. The County Council is currently considering its options in light of new regulations laid before parliament.

Joint Committees

Joint Health Overview and Scrutiny Committees are held where NHS organisations characteristically provide services to more than one HOSC area such as the Southampton, Hampshire, Isle of Wight and Portsmouth (SHIP) area. These standing joint committees consider issues of common interest. However due to financial

and resource pressures it has now been decided to hold joint meetings as or when common concerns warrant them. It has not met in 2012/13.

Section 3: Outline Work Programme for 2013/14

Building on feedback from partner organisations and Members, the HOSC will continue to use the four work strands identified to form the work programme for the coming year.

Relationships and Communication

The Committee will continue to engage actively with partner organisations across Hampshire and in one-to-one meetings as appropriate.

The Committee will begin a working relationship with local HealthWatch, and other partners who are in a position to comment on health provision and the effectiveness of joint health and social care arrangements.

Proposals to vary or develop NHS services

Members continue to work to the updated 'Framework for Assessing Substantial Service Change' document. This framework used in the Southampton, Hampshire, Isle of Wight and Portsmouth area (SHIP) has proved equally valuable to NHS organisations and to HOSCs in clarifying when proposed changes to services can be considered substantial. This revised framework incorporates the four tests which must be met before there can be any changes to

NHS services. These were to test that:

- the change is supported by local GPs commissioners;
- the plans are based on sound clinical evidence to improve outcomes for patients;
- there is strengthened public and clinical engagement on any proposals;
- consideration has been given to patients being offered choices of where to be treated.

The Framework for Assessing Service Change is attached at Appendix Three.

The Committee will also continue to be informed by proposed changes by NHS bodies or providers of health services to vary or change services and will respond within agreed timescales.

Reviews of Health Services

The Committee will continue to take an active interest in progress against previous HOSC Reviews.

Health Inquiries

The Committee will continue to receive information on, and initiate action in response to, issues raised by stakeholders.

Particular issues for further consideration and action during 2013/14 may include:

- The developing role of Clinical Commissioning Groups and NHS England.
- Transitions of NHS Trusts to become Foundation Trusts.

- Continuing impact of financial pressures and changing service models on sustainability in the NHS.
- National reviews of specialist NHS services.
- Monitoring of substantial changes to NHS services.
- Post-Francis review changes to complaints and performance monitoring within the NHS.
- Developments in relation to the Health and Wellbeing Board.

Specific topics scheduled on the Committee's work programme include:

Proposals to Vary of Develop Services:

- Vascular Services
- Adult Congenital Heart Disease Services National Review
- Children's Congenital Cardiac Surgery Services

Monitoring

- Adult Mental Health services.
- Chase Community Hospital.
- Fast Track Continuing Healthcare
- Fluoridation of drinking water in Southampton and South West Hampshire

Updates

- Hythe Community Hospital.
- NHS 111

Inquiries

- Child and Adolescent Mental Health Services.
- Surrey NHS FT: re-provision of adult mental services.
- North East Hampshire Out of Hours service.
- University Hospital Southampton – whole system update.

Appendix One

**Hampshire County Council
Health Overview and Scrutiny Committee
Summary of the Responsibilities of Local Authority and NHS Bodies
(National Health Service Act 2006 – Part 12 Sections 242 and 244 refer)**

Powers of local authority overview and scrutiny committees

Overview and scrutiny committees may:

- Review and scrutinise any matter relating to the planning, provision and operation of health services in the area of the committee's local authority;
- Make reports and recommendations to local NHS bodies and to its local authority on any matter reviewed or scrutinised using the overview and scrutiny of health power;
- Require the attendance of an officer of a local NHS body to answer questions and provide explanation about the planning, provision and operation of health services in the area of the committee's local authority;
- Require a local NHS body to provide information about the planning, provision and operation of health services in the area of the committee's local authority, subject to exemptions outlined in the Health and Social Care Act 2001/National Health Service Act 2006;
- Establish joint committees with other local authorities to undertake overview and scrutiny of health services;
- Delegate functions of overview and scrutiny of health to another local authority committee;
- Co-opt Members of the overview and scrutiny committees of district councils onto the committee as full Members (County Council committees only)
- Be able to report to the Secretary of State for Health:
 - Where the committee is concerned that consultation on substantial variation or development of services has been inadequate;
 - Where the committee considers that the proposal is not in the interests of the health service.

Duties of local NHS bodies

NHS bodies must:

- Provide information requested by the overview and scrutiny committee subject to exemptions;
- Attend before committees to answer questions, subject to exemptions;
- On request, respond to reports and recommendations within 28 days of the request of the committee;
- Consult the local overview and scrutiny committee (including joint committees) on matters of substantial development or variation to services, (in addition to the duty under section 242 of the National Health Service Act 2006 to involve and consult patients and the public).

**Hampshire County Council
Health Overview and Scrutiny Committee
Summary of Key Expectations in the Department of Health *Overview and
Scrutiny of Health - Guidance***

In the Annual Report, useful information is provided about the responsibilities of Members of HOSCs. The Annual Report also notes that interaction between the NHS and its local authority and other partners happens at different levels and in different ways. Local experience and intelligence about how the often complex arrangements work for patients, can come from key statutory partners or independent partners such as LINKs.

The busyness and complexity of the NHS, new national initiatives, and local patient experience can sometimes distract from reflection on the fundamental expectations of Government of the Health Overview and Scrutiny role. Some of these expectations are noted below as a reminder as to why the Committee places importance on:

- Relationship building
- Processes for effective scrutiny
- Strategic scrutiny
- Operational scrutiny

Relationship building

In the Department of Health's, *Overview and Scrutiny of Health – Guidance*, it was clearly indicated that they expected Health Overview and Scrutiny Committees to work in a challenging, complex environment; *“The Government’s intention is that the focus of health scrutiny is on health improvement, bringing together the responsibilities of local authorities to promote social, environmental and economic well-being and the power to scrutinise local services provided and commissioned by the NHS”*. One of the key requirements of the Committee must be to establish and build a network of positive working relationships that will make it possible to achieve the broad aim of ***‘health improvement’*** as indicated in the Guidance. It is for this reason that the Annual Report explicitly comments on ‘relationship building’ as a key area of the Committee’s work.

Processes for effective scrutiny

The Guidance implies its concern that HOSCs should have effective processes for scrutinising issues that are brought to it, for example, it says, *“...if the process (of scrutiny) is aggressive, or relies on opinion rather than evidence, it is unlikely to lead to positive or sustainable improvement.”* It also emphasises that scrutiny must be based on firm

foundations, *“Members of scrutiny committees need to take a constructive but challenging approach to the role, bringing together evidence and people’s experience to identify priority issues and drive forward improvement.”* The Annual Reports makes clear that establishing and building effective processes for the scrutiny function is another key responsibility of the Committee.

Strategic scrutiny

The Guidance document is helpful in explaining the scope of health scrutiny when it says, *“The powers of overview and scrutiny of the NHS enable committees to review any matter relating to the planning, provision and operation of health services in the area of its local authority. It is recommended that best use of these powers will depend on committees scrutinising a health issue, system or economy, not just services provided...”*. The wider context of local service delivery is therefore of significant interest. Examples of this aspect of the Committee’s work are to be found in its raising questions about national funding, or in its Hampshire-wide reviews of health issues.

Operational scrutiny

The Government Guidance also gives due weight to Health Scrutiny’s role with respect to local service delivery, *“Committees are best placed to concentrate on ensuring that health services address the needs of local communities and that local health and health-related issues are being tackled jointly across local agencies.”* The sections on *Proposals to vary or develop NHS Services*, and *Health Inquiries* in the Annual Report contain examples of this aspect of the Committee’s work.

Implicit in the Guidance is the expectation that because, *“...the focus of health scrutiny is on health improvement”*, the remit will inevitably include those areas, sometimes associated with ‘wellbeing’ that can be determinants of health, *“...the solutions to matters that are scrutinised, may therefore be the responsibility of a number of stakeholders. In this light the power to scrutinise health services should be seen and used in the wider context of the local authority role of community leadership and of other initiatives to promote and facilitate improvement.”*

Appendix Three

Southampton, Hampshire, Isle of Wight and Portsmouth Health Overview and Scrutiny Committees: Arrangements for Assessing Substantial Change in NHS provision (revised April 2013)

Purpose and Summary

- 1) The purpose of this document is to agree the arrangements for assessing significant developments or substantial variations in NHS services across the Southampton, Hampshire, Isle of Wight and Portsmouth (SHIP) Local Authority areas.
- 2) It describes the actions and approach expected of relevant NHS bodies or relevant health service providers and Local Authorities with health scrutiny functions when proposals that may constitute substantial service change are being developed and outlines the principles that will underpin the discharge of each parties' role and responsibilities.
- 3) The document is the third refresh of the 'Framework for Assessing Substantial Service Change' originally developed with advice from the Independent Reconfiguration Panel (IRP)¹ and updates the guidance relating to the key issues to be addressed by relevant NHS bodies or relevant health service providers when service reconfiguration is being considered. Emphasis is placed on the importance of constructive working relationships and clarity about roles by all parties based on mutual respect and recognition that there is a shared benefit to our respective communities from doing so.
- 4) This framework has been amended following the publication of 'The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013'², which were laid before parliament on 8 February 2013. These regulations followed from changes made to local authority health scrutiny in the Health and Social Care Act 2012.
- 5) The legal duties placed on relevant NHS bodies or relevant health service providers and the role of health scrutiny are included to provide a context to the dialogue that needs to be taking place between relevant NHS bodies or relevant health service providers and the relevant local authority/authorities to establish if a proposal is substantial in nature. In this document, the term 'NHS' and 'NHS bodies' refer to:
 - Local Area Teams of the NHS Commissioning Board
 - Clinical Commissioning Groups
 - NHS Trusts and NHS Foundation Trusts
- 6) It is intended that these arrangements will support:
 - Improved communications across all parties.

¹ <http://www.irpanel.org.uk/view.asp?id=0>

² <http://www.legislation.gov.uk/ukxi/2013/218/contents/made>

- Better co-ordination of engagement and consultation with service users carers and the public.
 - Greater confidence in the planning of service change to secure improved outcomes for health services provided to communities across Southampton, Hampshire, the Isle of Wight and Portsmouth.
- 7) Section 242 of the NHS Act places a statutory duty on the NHS to engage and involve the public and service users in:
- Planning the provision of services
 - The development and consideration of proposals to change the provision of those services
 - Decisions affecting the operation of services.
- 8) This duty applies to changes that affect the way in which a service is delivered as well as the way in which people access the service.
- 9) Section 244 of the NHS Act 2006 places a statutory duty on relevant NHS bodies or relevant health service providers to consult Local Authorities on any proposals for significant development or substantial variation in health services. NHS organisations will note that this duty is quite distinctive from the routine engagement and discussion that takes place with Local Authorities as partners and key stakeholders.
- 10) Significant development and substantial variation are not defined in the legislation but guidance published by the Department of Health and Centre for Public Scrutiny on health scrutiny make it clear that the body responsible for the proposal should initiate early dialogue with those health scrutineers to determine:
1. If the health scrutiny committee consider that the change constitutes a significant development or substantial variation in service
 2. The timing and content of the consultation process.
- 11) Where it is agreed that a set of proposals amount to a substantial change in service, the NHS body or relevant health service provider must draw together and publish timescales which indicate the proposed date by which it is intended that a decision will be made. These timescales must also include the date by which the local authority will provide comments on the proposal, which will include whether the NHS Body has:
- Engaged and involved stakeholders in relation to changes; and,
 - Evidenced that the changes proposed are in the interest of the population served.
- It is therefore expected that the NHS body or relevant health service provider works closely with health scrutineers to ensure that timetables are reflective of the likely timescales required to provide evidence of the above considerations, which in turn will enable health scrutiny committees to come to a view on the proposals.

- 12) The development of the framework has taken into account the additional key tests for service reconfiguration set out by the Chief Executive of the NHS. Where it is agreed that the proposal does constitute a substantial change the response of a health scrutiny committee to the subsequent consultation process will be shaped by the following considerations:
- Has the development of the proposal been informed by appropriate engagement and involvement of local people and those using the service? This should take account of the relevant equality legislation and be clear about the impact of the proposal on any vulnerable groups.
 - The extent to which commissioners have informed and support the change.
 - The strength of clinical evidence underpinning the proposal and the support of senior clinicians whose services will be affected by the change.
 - How the proposed service change affects choice for patients, particularly with regard to quality and service improvement.
- 13) NHS organisations and relevant health service providers will also wish to invite feedback and comment from the relevant Local Healthwatch organisation, which have been established by the Health and Social Care Act 2012 to build on the work of Local Involvement Networks (LINKs) in facilitating the involvement of adults and children using health and social care services in their area. Local Healthwatch has specific powers, including the ability to refer areas of concern to health scrutineers and Healthwatch England, and specific responsibilities, including advocacy and complaints, and signposting to information. Health scrutiny committees expect to continue good relationships with patient and public representatives and will continue to expect evidence of their contribution to any proposals for varying health services from the NHS.
- 14) The framework attached at Appendix One identifies a range of issues that may inform both the discussion about the nature of the change and the response of health scrutiny committees to the consultation process. The intention is that this provides a simple prompt for assessing proposals, explaining the reasons for the change and understanding the impact this will have on those using, or likely to use, the service in question.
- 15) The framework is not a 'blueprint' that all proposals for changing services from the NHS / relevant health service provider are expected to comply with. The diversity of the health economy across the Southampton, Hampshire, Isle of Wight and Portsmouth area and the complexity of service provision need to be recognised, and each proposal will therefore be considered in the context of the change it will deliver. The framework can only act as a guide: it is not a substitute for an on-going dialogue between the parties concerned. It is designed for use independently by organisations in the early stages of developing a proposal, or to provide

a basis for discussion with health scrutineers regarding the scope and timing of any formal consultation required.

- 17) Although it remains good practice to follow Cabinet Office Guidance in relation to the content and conduct of formal consultation, health scrutiny committees are able to exercise some discretion in the discharge of this duty. Early discussions with the health scrutiny committee whose populations are affected by a proposal are essential if this flexibility is to be used to benefit local people.
- 18) Any request to reduce the length of formal consultation with a health scrutiny committee will need to be underpinned by robust evidence that the NHS body or relevant health service provider responsible for the proposal has engaged, or intends to engage local people in accordance with Section 242 responsibilities. These require the involvement of service users and other key stakeholders in developing and shaping any proposals for changing services. Good practice guidance summarises the duty to involve patients and the public as being:
 1. Not just when a major change is proposed, but in the on-going planning of services
 2. Not just when considering a proposal, but in the development of that proposal, and
 3. In decisions that may affect the operation of services
- 19) All proposals shared with health scrutiny committees by the NHS body or relevant health service provider – regardless of whether or not they are considered substantial in nature - should therefore be able to demonstrate an appropriate consideration of Section 242 responsibilities.
- 20) Individual health scrutiny committees will come to their own view about the nature of change proposed by an NHS body or relevant health service provider. Where a proposal is judged to be substantial and affects service users across local authority boundaries the health scrutiny committees concerned are required to make arrangements to work together to consider the matter.
- 21) Although each issue will need to be considered on its merits the following information will help shape the views of health scrutiny committees regarding the proposal:
 1. The case of need and evidence base underpinning the change taking account of the health needs of local people and clinical best practice.
 2. The extent to which service users, the public and other key stakeholders including GP commissioners have contributed to developing the proposal. Regard must be given to the involvement of 'hard to reach groups' where this is appropriate, including the need for any impact assessment for vulnerable groups.
 3. The improvements to be achieved for service users and the additional choice this represents. This will include issues relating to service quality, accessibility and equity.

4. The impact of the proposal on the wider community and other services. This may include issues such as economic impact, transport issues and regeneration as well as other service providers affected.
 5. The sustainability of the service(s) affected by proposals, and how this impacts on the wider NHS body or relevant health service provider.
- 22) This information will enable health scrutiny committees to come to a view about whether the proposal is substantial, and if so, whether the proposal is in the interest of the service users affected.
 - 23) The absence of this information is likely to result in the proposal being referred back to the responsible NHS Body or provider of NHS services for further action.
 - 24) If an NHS body or relevant health service provider consider there is a risk to the safety or welfare of patients or staff then temporary urgent action may be taken without consultation or engagement. In these circumstances the health scrutiny committee affected should be advised immediately and the reasons for this action provided. Any temporary variation to services agreed with the health scrutiny committee, whether urgent or otherwise, should state when the service(s) affected will reopen.
 - 25) If the health scrutiny committee affected by a proposal are not satisfied with the conduct or content of the consultation process, the reasons for not undertaking a consultation (this includes temporary urgent action) or that the proposal is in the interests of the health service in its area then the option exists for the matter to be referred to the Secretary of State. Referrals are not made lightly and should set out:
 - Valid and robust evidence to support the health scrutiny committee's position. This will include evidence that sustainability has been considered as part of the service change.
 - Confirmation of the steps taken to secure local resolution of the matter, which may include informal discussions at NHS Commissioning Board Local Area Team level.

Guiding Principles

- 26) The four health scrutiny committees and panels in Southampton, Hampshire, the Isle of Wight and Portsmouth work closely in order to build effective working relationships and share good practice.
- 27) Health scrutiny committees will need to be able to respond to requests from the NHS or relevant health service providers to discuss proposals that may be significant developments or substantial variations in services. Generally in coming to a view the key consideration will be the scale of the impact of the change on those actually using the service(s) in question.

- 28) Early discussions with health scrutiny committees regarding potential for significant service change will assist with timetabling by the NHS and avoid delays in considering a proposal. Specific information about the steps, whether already taken or planned, in response to the legislation and the four tests (outlined in paragraph 12), will support discussions about additional information or action required.
- 29) Some service reconfiguration will be controversial and it will be important that health scrutiny committee members are able to put aside personal or political considerations in order to ensure that the scrutiny process is credible and influential. When scrutinising a matter the approach adopted by the HOSCs will be:
1. Challenging but not confrontational
 2. Politically neutral in the conduct of scrutiny and take account of the total population affected by the proposal
 3. Based on evidence and not opinion or anecdote
 4. Focused on the improvements to be achieved in delivering services to the population affected
 5. Consistent and proportionate to the issue to be addressed
- 30) It is acknowledged that the scale of organisational change currently being experienced in the NHS coupled with significant financial challenges across the public sector is unprecedented. Consultation with local people and health scrutiny committees may not result in agreement on the way forward and on occasion difficult decisions will need to be made by NHS bodies. In these circumstances it is expected that the responsible NHS body or relevant health service providers will apply a 'test of reasonableness' which balances the strength of evidence and stakeholder support and demonstrates the action taken to address any outstanding issues or concerns raised by stakeholders.
- 31) If the health scrutiny committee is not satisfied that the implementation of the proposal is in the interests of the health service in its area the option to refer this matter to the Secretary of State remains.
- 32) All parties will agree how information is to be shared and communicated to the public as part of the conduct of the scrutiny exercise.

Appendix One – Framework for Assessing Change

Key questions to be addressed

Each of the points outlined above have been developed below to provide a checklist of questions that may need to be considered. This is not meant to be exhaustive and may not be relevant to all proposals for changing services

The assessment process suggested requires that the NHS or relevant health service providers responsible for taking the proposal forward co-ordinates consultation and involvement activities with key stakeholders such as service users and carers, Local Healthwatch and other relevant Patient and Public Involvement Forums, NHS organisations, elected representatives, District and Borough Councils, voluntary and community sector groups and other service providers affected by the proposal. The relevant health scrutiny committee(s) also need to be alerted at the formative stages of development of the proposal. The questions posed by the framework will assist in determining if a proposal is likely to be substantial, identify any additional action to be taken to support the case of need and agree the consultation process.

Name of Responsible (lead) NHS or relevant health service provider:

Brief description of the proposal:

Why is this change being proposed?

Description of Population affected:

Date by which final decision is expected to be taken:

Confirmation of health scrutiny committee contacted:

Name of key stakeholders supporting the Proposal:

Date:

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>Case for Change</p> <p>1) Is there clarity about the need for change? (e.g. key drivers, changing policy, workforce considerations, gaps in service, service improvement)</p> <p>2) Has the impact of the change on service users, their carers and the public been assessed?</p> <p>3) Have local health needs and/or impact assessments been undertaken?</p> <p>4) Do these take account of :</p> <p>a) Demographic considerations?</p> <p>b) Changes in morbidity or incidence of a particular condition?</p> <p>c) Impact on vulnerable people and health equality</p>		

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>considerations?</p> <p>d) Potential reductions in care needs? (e.g. falling birth rates)</p> <p>e) Comparative performance across other health providers?</p> <p>f) National government police</p> <p>g) local</p> <p>5) Has the evidence base supporting the change proposed been defined? Is it clear what the benefits will be to service quality or the patient experience?</p> <p>6) Do the clinicians affected support the proposal?</p> <p>7) Is any aspect of the proposal contested by the clinicians affected?</p> <p>8) Is the proposal supported by GP</p>		

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>commissioners?</p> <p>9) Will the proposal extend choice to the population affected?</p> <p>Impact on Service Users</p> <p>10) How many people are likely to be affected by this change? Which areas are the affecting people from?</p> <p>11) Will there be changes in access to services as a result of the changes proposed?</p> <p>12) Can these be defined in terms of</p> <ul style="list-style-type: none"> a) waiting times? b) transport (public and private)? c) travel time? d) other? (please define) 		

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>13) Is any aspect of the proposal contested by people using the service?</p> <p>Engagement and Involvement</p> <p>14) How have key stakeholders been involved in the development of the proposal?</p> <p>15) Is there demonstrable evidence regarding the involvement of</p> <ul style="list-style-type: none"> a) Service users, their carers or families? b) Other service providers in the area affected? c) The relevant Local Healthwatch? d) Staff affected? e) Other interested parties? (please define) 		

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>16) Is the proposal supported by the key stakeholders?</p> <p>17) Is there any aspect of the proposal that is contested by the key stakeholders? If so what action has been taken to resolve this?</p> <p>Options for change</p> <p>18)How have service users and key stakeholders informed the options identified to deliver the intended change?</p> <p>19)Were the risks and benefits of the options assessed when developing the proposal?</p> <p>20)Have changes in technology or best practice been taken into account?</p> <p>21)Has the impact of the proposal on</p>		

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<p>other service providers, including the NHS, local authorities and the voluntary sector, been evaluated?</p> <p>22) Has the impact on the wider community affected been evaluated (e.g. transport, housing, environment)?</p> <p>23) Have the workforce implications associated with the proposal been assessed?</p> <p>24) Have the financial implications of the change been assessed in terms of:</p> <ul style="list-style-type: none"> a) Capital & Revenue? b) Sustainability? c) Risks?? <p>25) How will the change improve the health and well being of the population affected?</p>		