

Role of Scrutiny and Introduction to Health Scrutiny at the County Council

**Health and Adult Social Care
Select Committee
20 June 2017**



Background to Scrutiny

- Formal scrutiny introduced as part of the move to Executive Arrangements following the Local Government Act 2000
- Authorities operating Executive Arrangements must have at least one Scrutiny Committee



Background to Health Scrutiny

- **Health and Social Care (H&SC) Act 2001** introduced health scrutiny, as well as powers in relation to the NHS
- **NHS Act 2006** embedded duty for NHS to engage and consult with local population, and made health scrutiny a statutory consultee where there is substantial variation
- **H&SC Act 2012** extended powers to any provider of NHS services.
- **Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regs 2013** introduced Health and Wellbeing Boards and transferred Public Health to LAs

Role and purpose of HASC – Terms of Reference

- To be a formal consultee in any proposal the NHS or provider of an NHS service may have under consideration which may be considered ‘substantial’.
- To make recommendations to the NHS, providers of NHS services, Executive or to the County Council arising from the scrutiny process
- To conduct research and analysis of policy issues
- To hold the Executive and the Council to account (Adults’ Health and Care)

Examples of 'Substantial Variation'

Substantial variation not defined in legislation so examples taken from case law:

- Relocation of patients from one hospital to another where a hospital or ward is closing
- A 'temporary' ward or hospital closure that becomes permanent
- The removal of a service from a local community

Key test:

What does it look like from a patient perspective?



Scrutiny of Health Services

- The HASC's role in process is to decide if change is substantial, and if so:
 - Ensure health body has engaged and involved stakeholders in relation to changes; and,
 - Ensure that the changes proposed are in the interest of the population served.
- Proposals must be based on evidence and need, and informed by service users and carers
- Health service must be able to demonstrate improvements for service users, and show that proposals will not impact on wider stakeholders or service users

How to determine if in 'best interest'

'Four tests' of Secretary of State supports approach

- a) Informed by appropriate engagement and involvement
 - b) Commissioners support the change
 - c) Strength of clinical evidence and the support of senior clinicians whose services will be affected
 - d) How service change affects choice for patients
- (Plus one extra: how sustainable is the change?)*
- Have framework used by health services

Power of Health Scrutiny

Able to refer health service to the Secretary of State for Health if Committee agrees the following in relation to a substantial change in service:

- Timing/content/scope of consultation inadequate
- Reasons for not consulting inadequate
- Proposed change is not in the interests of health services in the area
 - Any referral should set out evidence and demonstrate local resolution sought
 - Any referral must be agreed by Full Council

Typical timeline of Substantial Variation

- Proposer of variation and commissioner (if not the same) attend to present proposals – HASC determine if likely to be a substantial change
- HASC monitors and makes recommendations on consultation / engagement, feedback received to formal meeting
- HASC determines if referral to SoS is appropriate
- May decide to hold working group in between to invite and examine evidence
- Other stakeholders involved – HWBB, Healthwatch, NHS Boards, Adults' Health and Care, etc.

Holding the Executive and the Council to Account

- Scrutinising decisions which the Executive is planning to take (Pre-scrutiny)
- Scrutinising Executive decisions that have been taken before they are implemented (Call-in)
- Scrutinising Executive decisions after they have been implemented, whether shortly afterwards or as part of a wider review of policy to measure their effect



Scrutiny of Decisions

- Issues to consider when scrutinising decisions:
 - Are decisions evidence based?
 - Has appropriate consultation been undertaken?
 - Do decisions reflect the County Council's priorities?
 - Have alternative options been considered?

Call-in

- Only applies where a decision has been made but not yet implemented
- Can only be done within 5 working days of the date members have been notified of the decision
- A quorum of members can call a meeting of a select committee to consider an executive decision. The Committee must meet within 14 days of the of meeting being called

Call in options

The Committee must decide whether or not to recommend:

- That the decision be reconsidered by the relevant decision maker
- Where the decision is not in line with the Policy or Budget Framework that the County Council should take that decision

Effect of call-in

- Any decision which is not in line with the Policy or Budget Framework cannot be implemented until the call in has been disposed of
- Urgent Key Decisions cannot be called in although they can still be scrutinised by the committee

Policy Development and Review

- Key work stream is to review and make recommendations either to the Executive or to the Full Council to assist in the development of future policies and strategies
 - Contribute to development of new or improved council policies and strategies
 - Proactive review where there may be gaps / a change in the law
- Select Committees also have a role in reviewing existing policy, to consider:
 - Do we have a clear and up to date approach?
 - Is it the right approach?
 - Are policies coherent and joined up?
 - Are the policies effective when put into action - is it working? Are they delivering what was intended?

Working Groups

- Group of Members identified to meet outside of the formal committee meetings
- Focuses on a topic where SC feels there is benefit to review
- Aims and timescale scoped, meetings held with relevant officers to discuss, evidence can be sought, culminates in summary of findings and recommendations where relevant
- Example: supporting people services, S136 MHA



Items for the Agenda

- Agenda mostly driven by inquiries from stakeholders/members and proposals or changes from health service
- Chairman and Vice Chairman review items with Directors six weeks before meeting
- Members of the Committee can suggest items for the agenda on policy review or an inquiry regarding a health service
- Any member can refer a matter to a Committee provided it is relevant to the function of that committee
- The Executive or the County Council may request that a committee considers a matter referred by them

What will success look like?

- Issues locally resolved and good partnership working demonstrated
- Topics are prioritised appropriately and timely in relation to service change
- Time and resources appropriately focused
- Constructive and evidence-based
- Work programme is realistic, flexible and focused
- Any reviews well scoped and project managed to ensure they are timely and improvement focused
- **Members clear on remit and appropriateness of recommendations**

Conclusion

- Role of health scrutiny is threefold:
 - Scrutinising substantial change
 - Policy review and development
 - Holding the Executive to account
- Health scrutiny has power to refer, but local resolution preferred
- Work programme well managed and constructive evidence-based approaches taken to issues

Role of Scrutiny

Any Questions?

