

# **Southampton, Hampshire, Isle of Wight and Portsmouth Health Overview and Scrutiny Committees: Arrangements for Assessing Substantial Change in NHS provision (revised July 2016)**

## **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 fourth refresh of the 'Framework for Assessing Substantial Service Change' originally developed with advice from the Independent Reconfiguration Panel (IRP)<sup>1</sup> 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 was amended in 2013 following the publication of 'The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013'<sup>2</sup>. These regulations followed from changes made to local authority health scrutiny in the Health and Social Care Act 2012. Subsequent guidance has been produced by NHS England<sup>3</sup> and the Department of Health<sup>4</sup> on health scrutiny, and this framework has been consequentially updated.
- 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:
  - NHS England
  - Clinical Commissioning Groups
  - NHS Trusts and NHS Foundation Trusts

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

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

<sup>3</sup> <https://www.england.nhs.uk/wp-content/uploads/2015/10/plan-ass-deliv-serv-chge.pdf>

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/324965/Local\\_authority\\_health\\_scrutiny.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324965/Local_authority_health_scrutiny.pdf)

- 6) It is intended that these arrangements will support:
- Improved communications across all parties.
  - 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 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 in the Government Mandate to NHS England. 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. Local Healthwatch has specific powers, including the ability to refer areas of concern to health scrutineers and Healthwatch England, and also specific responsibilities, including advocacy, 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.
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- 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. NHS organisations should also give thought to the NHS' assurance process, and seek advice as to the level of assurance required from NHS England, who have a lead responsibility in this area.
- 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 health scrutiny committees 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, 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:** Solent NHS Trust & Southern Health NHS Foundation Trust

**Name of lead CCG:** Portsmouth CCG, in collaboration with Fareham & Gosport and South Eastern Hampshire CCGs.

**Brief description of the proposal:**

Leading representatives from Hampshire's two mental health trusts, two local authorities, commissioners and other partners have agreed to a change in their approach to improving the delivery of mental health services by bringing together two NHS mental health trusts in partnership to deliver a single service.

Southern Health NHS Foundation Trust and Solent NHS Trust have agreed to work in closer partnership, alongside local authority and voluntary sector colleagues, supported by commissioners. They recognise that a key theme of the co-production design process that took place in the Summer of 2018 was improving crisis response, so they have started by bringing the two crisis teams together into a single service model that improves responsiveness and

consistency for adults of all ages.

<b>Service Users and Carers said</b>	<b>The new service will</b>
You want a timely response when you need it	Deliver a 24/7 needs led crisis service with response time standards
You want alternatives to admission	Offer home treatment as an alternative to admission Work with our partners to continue to develop community support, such as wellbeing centres and safe spaces
There shouldn't be a post code lottery	Aspire to have the same service for everyone living in Portsmouth and South East Hants
You should be able to self-define your crisis	Open the service to self-referral
Carers need support too	Open the service to carers to call
You want to talk to people who have lived experience and can give you hope	Work to increase peer support in the service
You want staff to listen and you want to be empowered to look after yourself	Support our staff to develop skills to help you achieve this
You want us to look after our staff	Design a programme of staff support and development

### **Why is this change being proposed?**

This change has followed months of careful observations of how teams are currently working, examination of processes and records, and over 150 hours of workshops and consultation involving hundreds of patients/service users, carers and staff discussing how services should look in the future and particularly how people would access community mental health services. The compelling findings of this extensive work have been crucial in establishing the principles and priorities for change, and that much closer working is needed.

Many patients/service users, family members, carers, staff and partners have given their time and energy to talk about their views on current services, being honest about their experiences, and making suggestions for the future.



It is undisputed that the people delivering care, treatment and support within services are hardworking and compassionate, and they strive to provide quality care. However it is clear that the processes and systems they are working within are not always efficient, can provide challenges in meeting demand.

**Description of Population affected:**

Mental Health Crisis Services in Portsmouth & South Eastern Hampshire have traditionally only been accessible to people already open to secondary care mental health services. This proposal seeks to extend the offer of Crisis Support and Home Treatment to a wider population of people, by allowing self-referral to the service when individuals self-define being in crisis. The service will also be newly available to carers.

**Date by which final decision is expected to be taken:** The project steering group has been meeting since September 2018 with a phased implementation starting from summer 2019

**Confirmation of health scrutiny committee contacted:** Portsmouth Health Overview Scrutiny Panel

**Name of key stakeholders supporting the Proposal:** Portsmouth CCG, Fareham & Gosport and South Eastern Hampshire CCGs, Solent NHS Trust, Southern Health NHS Foundation Trust, Solent Mind, Havant & East Hants Mind, Hampshire County Council, Portsmouth City Council.

**Date:** 26<sup>th</sup> February 2019

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<b>Case for Change</b>  1) Is there clarity about the need for change? (e.g. key drivers, changing policy, workforce considerations, gaps in service, service improvement)  2) Has the impact of the change on service users, their carers and the public been assessed?  3) Have local health needs and/or impact assessments been undertaken?  4) Do these take account of :  a) Demographic considerations?  b) Changes in morbidity or incidence of a particular condition? Or a potential reductions in care needs (e.g due to screening programmes)?	Yes  Yes  Yes  NA  NA	<p>The proposals have been informed by months of careful observations of how teams are currently working, examination of processes and records, and over 150 hours of workshops and consultation involving hundreds of patients/service users, carers and staff. The compelling findings of this extensive work have been crucial in establishing the principles and priorities for change, and that much closer working is needed.</p> <p>Quality, equality and data protection impact assessments have been undertaken for the project.</p> <p>No changes to this are being proposed</p> <p>No changes to this are being proposed</p>

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
c) Impact on vulnerable people and health equality considerations?	Yes	This has been considered in the Equalities Impact Assessment.
d) National outcomes and service specifications?	NA	There are no national outcomes or service specifications relating to Crisis provision.
e) National health or social care policies and documents (e.g. five year forward view)	Yes	<p>The NHS Long Term Plan commits to ensuring that a 24/7 community-based mental health crisis response for adults and older adults is available across England by 2020/21. This proposal will meet this requirement well in advance of this date.</p> <p>The Mental Health Five Year Forward View states that by 2020/21, all areas will provide crisis resolution and home treatment teams (CRHTTs) that are resourced to operate in line with recognised best practice – delivering a 24/7 community-based crisis response and intensive home treatment as an alternative to acute in-patient admissions. Again, this proposal will deliver this at a local level in advance of this date.</p>
f) Local health or social care strategies (e.g. health and wellbeing strategies, joint strategic needs assessments, etc)	Yes	The proposal supports delivery of the Health & Wellbeing Strategy, particularly the aim to "support social, emotional, mental and economic health" and the priorities to "promote positive mental wellbeing across Portsmouth" and "reduce the drivers for isolation and exclusion". It will do so by improving access to Mental Health services for people in Crisis and providing greater consistency in the support they receive.
5) Has the evidence base supporting the change proposed been	Yes	As outlined in the narrative sections above (description of the proposal and why the change is being proposed), the proposal is based on a

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
defined? Is it clear what the benefits will be to service quality or the patient experience?		compelling evidence base and over 150 hours of workshops and consultation. The benefits to service quality and patient experience are outlined in the table provided in the above section, and directly correlate to improvements identified in the workshops & consultation. The need to make changes to these areas have directly informed the actions committed to in this proposal.
6) Do the clinicians affected support the proposal?	Yes	The clinicians affected by this proposal have been fully involved in the workshops, consultation and co-production of the service transformation.
7) Is any aspect of the proposal contested by the clinicians affected?	No	
8) Is the proposal supported by the lead clinical commissioning group?	Yes	The CCG are fully committed to delivering this priority transformation project.
9) Will the proposal extend choice to the population affected?	Yes	The proposal will allow individuals to self-define when they are in crisis, and to self-refer into the Crisis Team, providing a greater choice of services to access (i.e. self-referral to the crisis team will remove the need to see a GP first) and ownership of their health condition.
10) Have arrangements been made to begin the assurance processes required by the NHS for substantial changes in service?	NA	The proposal does not constitute substantial change in service delivery. Existing levels of service will be enhanced for Portsmouth residents with a more robust out of hours staff deployment by combining two teams cross Portsmouth & SE Hampshire

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<b>Impact on Service Users</b>		
11)How many people are likely to be affected by this change? Which areas are the affecting people from?	Yes	The Crisis Teams currently receive over 2,100 referrals each year across the Portsmouth and South East Hampshire area. They support around 450 early discharges from acute mental health wards each year and provide over 1,000 people with episodes of Home Treatment.
12)Will there be changes in access to services as a result of the changes proposed?	Yes	This change will affect all of the patients currently receiving services from Crisis Teams as well as individuals who may gain access to the service because of the changes being proposed - including carers and self-referrers.
13)Can these be defined in terms of		
a) waiting times?	Yes	The proposal will deliver 24/7 needs led crisis service with response time standards, in direct response to service user requests for a timely response.
b) transport (public and private)?	NA	
c) travel time?	NA	Transport and travel time will not be affected as the combined crisis service will continue to deliver services from local hubs within localities.
d) other? (please define)	Yes	Access will be improved to ensure there is no post-code lottery, aspiring to have the same service for everyone living in Portsmouth and South East Hants. Access will also be improved to enable self-referral and for carers to call the service.
14)Is any aspect of the proposal contested by people using the service?	No	People using the service have been fully involved in the workshops, consultation and co-production of this proposal.

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
<b>Engagement and Involvement</b>  15) How have key stakeholders been involved in the development of the proposal?  16) Is there demonstrable evidence regarding the involvement of  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)  17) Is the proposal supported by key stakeholders?	Yes     Yes  Yes  Yes  NA  Yes	<p>The proposal has followed months of careful observations of how teams are currently working, examination of processes and records, and over 150 hours of workshops and consultation involving hundreds of patients/service users, carers and staff discussing how services should look in the future and particularly how people would access community mental health services. The compelling findings of this extensive work have been crucial in establishing the principles and priorities for change, and that much closer working is needed.</p> <p>Additional engagement workshops were held with service front line staff to cascade information about the proposals and to identify their concerns, issues and ideas. 6 key themes were raised, which are now being addressed by the project operational group and task and finish groups.</p> <p>Proposals are supported by Southern Health NHS Foundation Trust, Solent NHS Trust, Portsmouth Clinical Commissioning Group, South Eastern Hampshire Clinical Commissioning Group, Fareham and Gosport Clinical Commissioning Group, Hampshire County Council and</p>

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
18) Is there any aspect of the proposal that is contested by the key stakeholders? If so what action has been taken to resolve this?	No	Portsmouth City Council - who all attended and contributed to the project development workshops.
<b>Options for change</b>		
19)How have service users and key stakeholders informed the options identified to deliver the intended change?	Yes	As part of the redesign process
20)Were the risks and benefits of the options assessed when developing the proposal?	Yes	The multi-agency steering group includes service user representatives and is meeting monthly to manage the risks as the project develops
21)Have changes in technology or best practice been taken into account?	Yes	There is a Digital Enabling workstream which is part of the STP programme. They are looking at supporting inter-operability between the two trusts and opportunities for online consultations etc
22)Has the impact of the proposal on other service providers, including the NHS, local authorities and the voluntary sector, been evaluated?	Yes	
23)Has the impact on the wider community affected been evaluated (e.g. transport, housing,	No	

Criteria for Assessment	Yes/No/NA	Comments/supporting evidence
environment)?		
24)Have the workforce implications associated with the proposal been assessed?	Yes	This project enables a more effective use of nursing & medical workforce across the two Trusts particularly during the overnight period which is always more difficult to staff
25)Have the financial implications of the change been assessed in terms of: a) Capital & Revenue? b) Sustainability? c) Risks??	Yes	It is expected that this change will be delivered within existing budgets
26)How will the change improve the health and well being of the population affected?		Improved access to crisis services so people can get the right care at the right time