

Protocol for working together:

**NHS Sefton and Sefton's Overview and Scrutiny Committee
for Health and Social Care**

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1) Introduction

This protocol has been produced jointly by NHS Sefton and Sefton Council's Overview and Scrutiny Committee for Health and Social Care (OSC). Its purpose is to provide an agreed approach to working together based on current national regulations and local partnership agreements.

NHS Sefton and the OSC are both committed to improving health and reducing health inequalities for the area and its residents. In order to achieve this they are also committed to further development of an open and effective working relationship.

Regulation through the Health and Social Care Act (2001) supports this by setting out the powers that local authorities have in independently scrutinising health services through their overview and scrutiny committees. This includes:

- Scrutinising NHS policy, service planning and operations
- Being consulted on all proposals for major changes to health services
- Ability to call PCT managers to give information about services and decisions
- Reporting their findings and recommendations
- The power to refer matters to the Secretary of State

This document will set out how the two organisations will work together in relation to:

- Their roles and responsibilities
- Defining which matters that can be reviewed and scrutinised according to regulations, that is *Substantial Developments* or *Variations*
- The process for highlighting Substantial Developments or Variations – (including the known forthcoming priorities and plans of NHS Sefton and its partners which may be relevant to the Committee)

2) Roles and responsibilities

2.1 Overview and Scrutiny Committee for Health and Social Care responsibilities

- In the course of a review or scrutiny exercise, the Committee will raise local concerns, consider a range of evidence, challenge the rationale for decisions and propose alternative solutions as appropriate. It will need to balance different perspectives, such as differences of opinion between clinical experts and the public. All views should be considered before finalising its recommendations.
- The Committee will not duplicate the role of advocates for individual patients, the role of performance management of the NHS, or the role of inspecting the NHS.

- The Committee has no power to make decisions or to require that others act on its proposals. NHS Sefton must respond to recommendations of the committee and give reasons if it decides not to follow these.

2.2 NHS Sefton's responsibilities

- NHS Sefton will provide the Committee with information about the planning, provision and operation of health services. This information will be sufficient to meet the Committee's reasonable requirements so that it can deliver its health scrutiny functions.
- NHS Sefton will provide regular briefings for Committee Members on key issues.
- NHS Sefton will strive to ensure appropriate senior officer attendance at every meeting of the OSC and that specialist spokespersons will attend the meeting when it is relevant and necessary to promote a full understanding of specific issues.

3) Defining which matters that can be reviewed and scrutinised according to regulations

Overview and scrutiny powers cover any matter relating to the planning, provision and operation of health services. Health services are as defined in the NHS Act (1977) and cover health promotion, prevention of ill health and treatment.

Issues that can be scrutinised include the following:

- Arrangements made by local NHS bodies to secure hospital and community health services and the services that are provided
- Arrangements made by local NHS bodies for the public health, health promotion and health improvement including addressing health inequalities
- Planning of health services by local NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population
- The arrangements made by local NHS bodies for consulting and involving patients and the public
- Any matter referred to the Committee by Sefton Local Involvement Network (LINK)

3.1 Substantial Developments or Variations (SDVs) in services

NHS Sefton or the relevant NHS Trust will consult the Committee on any proposals it may have under consideration for:

- Any substantial development of the health service
- Any substantial variation in the provision of such services

This is in addition to discussions between NHS Sefton and the appropriate local authorities on service developments. It is also in addition to NHS Sefton's duty to consult patients and the public. Guidance indicates that solely focusing on consultation with the Committee would not constitute good practice.

The Committee has the responsibility to comment on:

- Whether as a statutory body the Committee has been properly consulted within the public consultation process
- The adequacy of the consultation undertaken with patients and the public
- Whether the proposal is in the interests of Health Services in the area

4) Defining an SDV

Substantial developments or variations are not defined in regulations. The impact of the change on patients, carers and the public is the key concern. Therefore the following factors should be taken into account:

- Changes in accessibility of services such as reductions, increases, relocations or withdrawals of service
- The size of the population (over x – to be agreed)
- The cost of the service (over x – to be agreed)
- Impact on patients – the extent to which groups of patients are affected by a proposed change (including those where divisions in inequality would be widened, such as people in areas of severe deprivation, those with disabilities, older people etc)
- Methods of service delivery – altering the way a service is delivered
- Issues that are clearly identified in either local or national policy as a priority, for example infection control, screening for specific conditions
- Any issue that is of local public interest regardless of service size, provision or cost, or one that by its nature will cause national interest or have a reputational dimension

A checklist (Appendix 1) has been devised based upon the above criteria to help members of the OSC and NHS Sefton determine what constitutes a substantial development or variation.

5) Process for highlighting SDVs

NHS Sefton and the OSC have an agreed 'level' at which issues should be presented to the Committee based on the criteria in **section 4** above:

It may not always be clear how best to handle a particular issue. On these occasions the Chair, on behalf of the Committee, will decide in consultation with the key PCT officer, whether or not the proposal should be discussed with the Committee.

This initial assessment is conducted in line with the following three levels:

Level One

When the proposed change is minor in nature, for example a change in clinic times, the skill mix of particular teams, or small changes in operational policies.

Action - The Committee would not become involved directly

Level Two

Where the proposed change has moderate impact, or consultation has already taken place on a national basis. Examples could include a draft Local Delivery Plan, proposals to rationalise or reconfigure Community Health Teams, or policies that will have a direct impact on service users and carers. Such proposals will involve consultation with patients, carers, staff and the LINKs, but will NOT involve:

Reduction in service
Change to local access to service
Large numbers of patients being affected

Action - The Committee will wish to be notified of these proposals at an early stage but would be unlikely to require them to be dealt with formally as an SDV. A briefing may be required for the full Committee or through the Chair.

Level Three

Where the proposal has significant impact and is likely to lead to:

Reduction or cessation of service
Relocation of service
Changes in accessibility criteria
Local debate and concern

Examples would include a major review of service delivery, reconfiguration of GP Practices, or the closure of a particular service.

Action - The Committee will normally regard these proposals as an SDV, and would expect to be notified at as early a stage as possible. The Committee would consider the proposal formally at one of their meetings, in order to comment and to satisfy the requirement for the Overview and Scrutiny Committee to be consulted in these circumstances.

Officers from NHS Sefton or other NHS Trust will work closely with the Committee to provide all relevant information about such issues. If the Committee does not support the proposals, or has concerns about the adequacy of consultation it should provide reasons and evidence. NHS Sefton will consider the Committee's views in its decision making process and will give an explanation of its conclusions.

5.1 Note on the Consultation Standards Panel

The Sefton Consultation and Engagement Standards Panel monitors adherence to the standards set out in the Sefton Borough Partnership Engagement and Consultation Framework. It also provides support and advice for staff in partner organisations in Sefton when planning and conducting public and service user involvement activity. NHS Sefton is expected to submit proposals for consultations and engagement activities to

the panel, which may be able to provide expert advice in relation to SDV issues

5.2 Exemptions

The Committee will only be consulted on proposals to establish or dissolve a NHS trust or PCT if this represents a substantial development or variation.

The Committee does not need to be consulted on proposals for pilot schemes within the meaning of section 4 of the NHS (Primary Care) Act 1997 as these are the subject of separate legislation.

NHS Sefton or other NHS Trusts will not have to consult the Committee if they believe that a decision has to be taken immediately because of a risk to the safety or welfare of patients or staff. These circumstances should be exceptional. The Committee will be notified immediately of the decision taken and the reason why no consultation has taken place.

5.3 Report to Secretary of State for Health

The Committee may report to the Secretary of State (SoS) for their consideration when it is not satisfied with the consultation or the proposals. *Referral should not be made until the NHS body concerned has had the opportunity to respond to the Committee's comments and local resolution has been attempted.*

Specific areas of challenge include:

- The content of the consultation or that insufficient time has been allowed
- The reasons given for not carrying out consultation are inadequate ('inadequate consultation' in the context of referral to the SoS means only consultation with the Committee, not consultation with patients and the public)

6) Evaluation and Review

Compliance with the guidance set out in this document should be audited and evaluated every 12 months. In addition to this, the content of the document should be reviewed as a minimum on an annual basis. However, review may happen with increased frequency as a result of policy change and functional and structural changes referred to in the NHS White Paper, *Equity and Excellence: Liberating the NHS* and following the release of the National Health Bill in January 2011.

Appendix 1 - Checklist for determining substantial development or variation

This checklist is designed to support NHS Sefton and Sefton Council's Health and Social Care Overview and Scrutiny Committee as to which proposals may require greater scrutiny by Committee Members.

| | |
|----------------------------|--|
| Summary of proposal | |
| Timescale | |

| <i>Nature of the change and possible reasons</i> | <i>Comment / evidence</i> |
|---|----------------------------------|
| <i>Change in Service</i> | |
| Does the proposed change relate to any key strategies already considered by the OSC? | |
| Why is this change proposed? (e.g. local or financial needs/government policy) | |
| Is the proposed change a service improvement or cut in provision? | |
| Is the proposal realistic and achievable? | |
| What will be the impact of the change on users, carers, other stakeholders and public? | |
| Will this change achieve improved health and wellbeing for local people? (currently and/or in the future) | |
| Will the change increase efficiency and cost effectiveness? | |
| <i>Changes in Accessibility to Services</i> | |
| Reductions and increases on a particular site | |
| Changes in opening times for a service | |
| Withdrawal of in-patient, out-patient, day patient or diagnostic facilities for one or more speciality from the same location | |
| Relocating an existing service | |
| Changing methods of accessing a service such as the appointment system etc | |

| | |
|--|--|
| <p>Impact on health inequalities - reduced or improved access to all sections of the community e.g. older people; people with learning difficulties/physical and sensory disabilities/mental health needs; black and ethnic minority communities; lone parents. Has an EIA reduction / re-organising of service form been completed?</p> | |
| Patients Affected | |
| How many patients are likely to be affected? (are they all Sefton residents?) | |
| Changes that affect the local or whole population e.g. Accident and Emergency | |
| Changes that affect a group of patients accessing a highly specialised service e.g. renal services | |
| Changes that affect particular communities or groups | |
| Methods of Service Delivery | |
| Moving a service into a community setting rather than being hospital based or vice versa | |
| Delivering care using new technology | |
| Reorganising services at a strategic level | |
| Impact of Proposal on the Wider Community | |
| Impact on other services (e.g. Economy, Transport, Regeneration, Social Inclusion) | |
| Impact on rural areas/populations (e.g. as evidenced through Equality & Health Impact Assessments) | |
| How do the Proposals meet the DH four key tests for service change? | |
| Support from GP commissioners | |
| Strengthened public and patient engagement | |
| Clarity on the clinical evidence base | |
| Consistency with current and prospective patient choice | |