

<b>Committee</b>	<b>Date:</b>
Health and Social Care Scrutiny Sub Committee	02 February 2015
<b>Subject:</b> Review of Health Overview and Scrutiny Functions	<b>Public</b>
<b>Report of:</b> Director of Community and Children's Services	<b>For Decision</b>

### **Summary**

At its meeting on 25 November 2014, the Health and Social Care Scrutiny Sub Committee received a report highlighting how recent national developments have impacted on how local authorities exercise their health overview and scrutiny function. The report recommended that although there are no concerns that the City's arrangements are flawed, the Health and Social Care Scrutiny Sub Committee should take the opportunity to examine if there are any areas where its health overview and scrutiny functions could be enhanced.

Members agreed a two phased approach for this review. This report details how the review would take place through an agenda presented in Appendix 1. To support Members benchmark against current practice, a review of key lessons from the Alexis Jay and Robert Francis QC reports is presented in Appendix 2 and overview of best practice elsewhere (Appendix 3) is also presented.

### **Recommendation(s)**

Members are asked to:

- Note the report.
- Agree the structure and framework for the two phased review presented within this report.

### **Main Report**

#### **Background**

1. At its meeting on 25 November 2014, the Health and Social Care Scrutiny Sub Committee received a report highlighting how recent national developments have impacted on how local authorities exercise their health overview and scrutiny function.
2. In particular, Members were alerted on how, in light of reports by Robert Francis QC and Alexis Jay into the mid Staffordshire and Rotherham enquiries, local authority health scrutiny was facing an important and challenging time and that the clear message in these reports was that these incidents should not be regarded as one off events that could not be repeated elsewhere.
3. Members agreed that although there are no concerns that the City's arrangements are flawed, the Health and Social Care Scrutiny Sub Committee

should take the opportunity to examine if there are any areas where its health overview and scrutiny functions could be enhanced. This would also be in line with earlier recommendations that the City's health scrutiny function ought to be the subject of a review no later than April 2014.

## **Current Position**

- 4 At the Health and Social Care Scrutiny Sub Committee meeting on 25 November 2014, Members agreed the two phased approach proposed for this review. This would comprise firstly an initial stocktake of its current position, supported by officer's research of best practice elsewhere and then to recommend to a future meeting and, if necessary, to the Grand Committee what changes are needed to the health overview and scrutiny functions in the City as a result.

## **Proposals**

- 5 This report presents a two phased approach for how the Sub Committee would undertake an assessment of its current practice and benchmark that practice against the recommendations made by Alexis Jay and Robert Francis QC, identifying any additional improvements that can be made (Appendix 1).
- 6 This is also supported by a review of what has been and can be learnt locally from both the Robert Francis QC and Alexis Jay reports (Appendix 2) and officers research of best practice elsewhere (Appendix 3).
- 7 The two phased approach comprises:

### **Phase I**

An initial stocktake of the Health Overview and Scrutiny Sub Committee current position benchmarked against recommendations in the Alexis Jay and Robert Francis QC reports (Appendix 2) and best practice elsewhere (Appendix 3). This initial assessment will be undertaken using the agenda presented in Appendix 1.

### **Phase II**

A working group established, comprising two Members to work with an officer to incorporate analysis, conclusions and recommendations into a report to be presented to the Health Overview and Scrutiny Committee in May 2015.

## **Corporate & Strategic Implications**

8. The proposals outlined within this report fit with the Community and Children's Services Departmental Business Plan priority to safeguard children and adults from abuse and neglect wherever possible and deal with it appropriately and effectively where it does occur<sup>1</sup>.

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<sup>1</sup> Community and Children's Services Departmental Business Plan 2014-17 Strategic Aim 1: Safety and protection for all.

## Implications

9. The Regulations (2013) have implications for relevant health service providers, including local authorities carrying out the local authority health scrutiny function, health and wellbeing boards and those involved in patient and public activities. The duties in the regulations are aimed at supporting local authorities to discharge their scrutiny functions effectively. Failure to comply with those duties will place the City in breach of its statutory duty and render it at risk of legal challenge.

## Conclusion

10. Since the publication of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, health scrutiny has faced a challenging time. Key incidents such as the mid Staffordshire hospital crisis and the abuse in Rotherham have put health scrutiny into sharp focus. This is also against the new context that local authorities are now working in – as commissioners and providers of public health they themselves can now be scrutinised.
11. A review of the Health and Social Care Scrutiny Sub Committees work programme shows that whilst the Sub Committee has been very effective in bringing to account NHS and other health bodies, hearing from its own commissioned services has not been so evident.
12. Furthermore, benchmarking against best practice in other local authorities (as presented in Appendix 3), indicates that at phase two, the City may also wish to consider whether the following steps would improve its effectiveness in undertaking its statutory duties, these could include, for example:
  - i) identifying a set of fundamental standards by which providers are actively measured;
  - ii) applying a structured approach to inviting providers to meetings;
  - iii) identifying how the committee could better communicate with patients/service users;
  - iv) doing more to reach out to those who might have comments that raise concerns to be taken up;
  - iv) training of members in the statutory duties of the committee so that all in the Committee can effectively contribute to the functions of the HOSC;
  - v) Given the role of local Healthwatch to champion patients' interests and in view of their statutory participative role in the Health and Wellbeing Board, the Sub Committee may wish to consider the benefits of co-opting Local Healthwatch to help the Sub Committee achieve points iii and iv above.
13. However, it also needs to be recognised that health services have many different aspects and a Health Overview and Scrutiny Sub Committee that meets at limited times with fixed resources needs to prioritise what it can achieve.
14. In light of these factors, this report proposes that the Health Scrutiny Sub Committee should examine how its scrutiny processes could be enhanced. The report proposes a two phase approach comprising:

## **Phase I**

An initial stocktake of the Health Overview and Scrutiny Sub Committee current position benchmarked against recommendations in the Alexis Jay and Robert Francis QC reports (Appendix 2) and best practice elsewhere (Appendix 3). This initial assessment will be undertaken today using the agenda presented in Appendix 1.

## **Phase II**

A working group established, comprising two Members to work with an officer to incorporate analysis, conclusions and recommendations into a report to be presented to the Health Overview and Scrutiny Committee in May 2015.

## **Appendices**

- Appendix 1: A Proposed Structure for a Review of the City's Health Overview and Scrutiny Function (Phase 1)
- Appendix 2: A review of key lessons from the Robert Francis QC and Alexis Jay Reports
- Appendix 3: The steps being taken in other local authorities to implement the lessons of the Robert Francis QC and Alexis Jay reports – a review of best practice

## **Background Papers**

Review of Health Overview and Scrutiny Functions, Report to Health and Social Care Scrutiny Sub (Community and Children's Services) Committee, 25 November 2014

Department of Health, Local Authority Health Scrutiny, Guidance to support Local Authorities and their partners deliver effective health scrutiny, June 2014.

Statutory Instrument No. 2013 /218 The Local authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

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## **Appendix 1: A Proposed Structure for a Review of The City's Health Overview and Scrutiny Function (Phase 1)**

**(5 mins)**

### **1. Introduction, background and outline of agenda**

The Chairman of the Health Overview and Scrutiny Committee

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**(5 mins)**

### **2. What have the Robert Francis QC and Alexis Jay enquiries taught us?**

Verbal presentation - Nina Bhakri, Policy Officer, DCCS

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**(5 mins)**

### **3. What follow up actions on Robert Francis QC / Alexis Jay are being undertaken by the Health Overview and Scrutiny committees of the local authorities where the trusts are based**

**Is there identified best practice in other authorities?**

Verbal presentation – Nina Bhakri, Policy Officer, DCCS

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**(45 mins)**

### **4. Open discussion - External Facilitator- Ben Lee, Programme Director, Shared Intelligence**

**The Health Overview and Scrutiny function in the City - Where do we need to be or are we where we should be?**

*Key questions:*

- What should the scope and objectives of Health Overview and Scrutiny in the City be and what is the role of Members to that?
- How can Members be supported to be more effective in that role (training, guidance etc.?)
- Who and what should be routinely scrutinised?
- How can we gain a better understanding of user experiences?

- What information do we need?
  - Do we need to agree a revised Terms of Reference to reflect a refreshed statement of the aim and objectives of Health Overview and Scrutiny and the role of Members?
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**(10 mins)**

**5. Summary and conclusion of open discussion - External Facilitator, Ben Lee, Programme Director, Shared Intelligence**

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**6. Next actions – The Chairman, Health Overview and Scrutiny Sub Committee**

1. A working group comprising two Members to work with an officer to incorporate analysis, conclusions and recommendations into a report to be presented to the Health Overview and Scrutiny Committee in May 2015.

**Biography of External Facilitator, Ben Lee, Programme Director, Shared Intelligence**

Ben Lee has 20 years' experience in central and local government, and public policy consultancy. He is an experienced facilitator, project manager, and researcher with specialisms in learning and knowledge-sharing programmes, communities of practice, neighbourhood management, public libraries and the arts. He is also well experienced in capacity development for local government scrutiny and local partnerships. He led the establishment of the National Association for Neighbourhood Management and has extensive knowledge of neighbourhood initiatives and community engagement in civic decision-making. Prior to joining Si he worked for the London Borough of Camden's chief executive department responsible for the borough's community strategy. Ben spent the first part of his career working in the then DoE and DETR dealing with social housing, sustainable development, and international aviation.

**<http://www.sharedintelligence.net>**

## **Appendix 2: A review of key lessons from the Robert Francis QC and Alexis Jay Reports**

Both the Alexis Jay and Robert Francis QC reports recommended that a fundamental change in culture was required which prioritises vulnerable and disenfranchised groups of people who are under public care.

The recommendations are framed around:

- A structure of fundamental standards and measures of compliance
- A requirement for openness, transparency and candour
- Stronger, patient centred healthcare leadership, with increased accountability
- Accurate, useful and relevant information to allow effective comparison of performance by patients and the public

Both reports point to a systematic failure by a range of national and local organisations – including the Health Overview and Scrutiny Committees of both County and District councils concerned – to respond to concerns. The reports underlined that these should not be seen as isolated incidents that could not be repeated elsewhere. On Overview and Scrutiny specifically, Robert Francis QC said:

*“The Overview and Scrutiny Committees in Stafford were happy to take on a role scrutinising health services but did not equate this with responsibility for identifying and acting on matters of concern; and they lacked expert advice and training, clarity about their responsibility, patient voice involvement and offered ineffective challenge”.*

At the annual conference held by the Centre for Public Scrutiny on 11 June 2013, at which Robert Francis QC was one of the speakers. Robert Francis QC stressed the potential value of local authority Overview and Scrutiny in safeguarding against similar failures to those in Mid Staffordshire. He drew particular attention to the need to make full use and ensure transparency of performance information, to elicit information from various sources and not to ignore the messages to be drawn from patient complaints.

At the same conference, Tim Kelsey, Director of NHS England, suggested that Health Overview and Scrutiny Committees needed professional support in interpretation of data and they should not rely solely on information given by NHS Trusts.

### **Questions for Scrutiny**

The repeated service failures and tragedies uncovered at Rotherham and Mid Staffordshire suggest that scrutiny should be playing an active role in providing constructive, critical challenge to councils and their partners.

Both Robert Francis QC and Alexis Jay identify three key platforms for effective scrutiny:

1. Performance indicators measuring the right things

Are Members confident that the council and its partners will be aware of problems when they arise and can the public be confident that when problems do arise they will be acted upon?

2. Access to the right information

Are Members confident that they have access to information that will enable them to challenge assertions about the quality of a service?

3. The role of scrutiny

Given that Scrutiny's foremost role is in policy and service development, to effectively achieve this, evidence is needed on how things are done now and everyone at every level of an organisation needs to be acknowledged to make this happen, not just senior officers and other carefully vetted witnesses. So, should Members reappraise their standing practices about how and when scrutiny engages with frontline and other officers?

### **Summary of key messages**

The Alexis Jay and Robert Francis QC reports have uncovered a number of weaknesses which can be grouped into six key areas:

1. Redefining the objectives for Health Overview and Scrutiny and specifying who should be scrutinised?
2. Members role in and improving their effectiveness
3. Prioritising issues for Overview and Scrutiny attention and getting the right information
4. User complaints – systems and overflows
5. Working with partners
6. Preparing for, conducting and recording meetings of Health Overview and Scrutiny Committees



## Appendix 3: An Overview of Best Practice

### Performance management

The CfPS has published a briefing intended to help those involved in scrutiny to use performance management and financial information to add value to the scrutiny process.

This briefing is based on two previous CfPS policy papers – “Green Light. How non-executives can improve people’s lives by helping to manage the performance of local services”, published in 2010, and “On the money: the scrutiny of local government finance”, originally published in 2007 and revised in 2011.

Detailed information about the approach to performance management and financial scrutiny can be accessed through ([www.cfps.org.uk](http://www.cfps.org.uk)).

### Getting the right information

- There are many different and vast aspects to health services, an Overview and Scrutiny Committee that meets at limited times cannot hope to scrutinise more than a small part of those services. The slender resources available to O&S also means there is a need to keep the flow of information to Members of manageable size, to focus on exception reporting flagging issues of possible concern and to prioritise quite ruthlessly where O&S should focus its efforts.

#### **Bracknell Forest Borough Council:**

**Members (with officer support) prioritise three or four headings to be scrutinised over a two year period and once finished then move on to another set of priorities**

**The Council has also adopted a tiered approach based on Members views of priority. This essentially means that a Member leads on monitoring a specific organisation. For example, One member leads on monitoring the activities of the CCG and the HOSC meet with the CCG Chairman and accountable officer at least once every two years**

**Dentists, opticians, pharmacists – An officer maintains watching brief on any CQC reports and brings anything of concern to a nominated Member for attention**

- The CfPS has recommended that council scrutiny should consider establishing a range of triggers for action using data and information to monitor trends. This data should not come just from NHS organisations themselves but from a variety of relevant sources, in order to arrive at a well informed and balanced viewpoint.

## **Public Participation:**

The CfPS has established four core principles to help people understand the most important activities of O&S, including that O&S “enables the voice and concerns of the public and its communities” This forms part of the CfPS “Good Scrutiny Guide”.

Separately, the CfPS has recommended that Health O&S needs to monitor information about the patient experience; hearing about people’s experiences of services and the public should be given an opportunity to raise issues.

### **The London Borough of Hackney:**

“The proportion of cancer cases that present when the cancer has spread and is deemed incurable is still extremely high in Hackney and our review on Increasing cancer survival focused therefore on improving early detection rather than the wider issue of preventing cancer. We visited Barts Cancer Centre, the new Endoscopy Unit at the Homerton and met cancer survivors at Macmillan’s Share Your Experience support group. Social Action for Health enabled us to meet with a large group of Turkish-Kurdish residents to discuss their experiences. We learned about the cultural and language barriers many face in engaging with health services, which is a key factor in late presentation. Our recommendations focused on reducing late presentation, addressing financial hardship for cancer patients, which is quite common, and how to reduce demand long term on the NHS by improving how people live “with and beyond cancer”. London Cancer (the clinician led provider network for north and east London) supported our call for commissioners to increase support for Survivorship Programmes (exercise programmes, support groups, complementary therapies) because improving cancer survival is as much about keeping people out of hospital as it is in providing the essential medical interventions. Financial struggles and the challenges of maintaining child care continue to be too much of a burden on those who fall ill and anxieties around these will always impede a person’s recovery”.

**Hackney Overview and Scrutiny report 2010-2014**

### **Information on Patients Complaints**

The Robert Francis QC report recommends that *“O&S committees should have access to detailed information about complaints, although respect needs to be paid to the requirement of patient confidentiality”*.

There is however, a plethora of information on complaints, with complaints being dealt with in a different way in each organisation and in many cases too detailed for O&S purposes.

### **Bracknell Forest Borough Council:**

**The Council analyses the quarterly patient safety Report, published by each NHS Trust in addition to regular flows of information from Local Healthwatch,**

**the Panel also receives the quarterly annual report from the complaints Advocacy Service.**

**It appears that residents do not necessarily associate their ward members with local health issues and Members are encouraged to outreach into their respective wards to relay properly prepared and approved health information and issues to residents living in their wards.**

**As part of the drive to get O&S better known and closer to residents the health O&S panel has requested providers to display on their websites a postcard summarising the role of O&S and welcoming views (but not individual complaints ) from patients to the O&S panel.**

**Partnership working:**

**For Health O&S to operate well, it needs to work with various organisations providing health services and related regulatory and other bodies.**

**Hackney O&S - Partnership working with Local Healthwatch**

**“Our short review on Improving GP appointment systems, partly prompted by Hackney Healthwatch, looked at the difficulties many experience in getting an appointment to see their GP. We looked at national and local research and visited 5 very different local GP practices to meet Practice Managers and GPs. We examined in detail the ‘Doctor First’ system, introduced locally by Nightingale Practice and spoke to its founder, a company based in Leicester. We examined how Practices can better model and manage their demand and then match that demand to capacity. We learned that GPs are dealing with increases in both volume and complexity of the health and social care needs of their patients and are doing so in the context of overall reductions in the national funding for GP services. We also looked at the burden on the NHS caused by too many patients with minor ailments presenting at A&E. This and the alarming number of “do not attends” for GP appointments represent a significant cost on the NHS and need to be tackled and we addressed all these issues in our recommendations.”**

**Hackney Overview and Scrutiny report 2010-2014**

**Councillors on Trust Boards, etc.**

**Bracknell Forest Borough Council:**

**The Executive Member for Adult services, Health and Housing carries out a stocktake of all the Council’s external positions on Health related bodies and works with Members to ensure that all suitable opportunities are taken up.**

**The O&S Panel maintains regular contact with those councillors on Trust Boards / Governing bodies, with the aim of working in concert with them to best represent resident interests. This includes asking each councillor**

**representative to report to the Panel at least once annually, subject to confidentiality rules.**

**Local Healthwatch:**

**Bracknell Forest Borough Council formally recognises in its terms of reference, that the Local Healthwatch is a formal observer in its Health Overview and Scrutiny Panel and the Panel obtains regular feedback on complaints processes, trends and feedback.**