



LEEDS
CITY COUNCIL

Scrutiny Board (Health)

**Protocol between the Scrutiny Board (Health)
and NHS Bodies in Leeds**

Updated: June 2009

Purpose

The purpose of this protocol is to provide guidance and a common understanding on how Health Scrutiny will operate in Leeds and provide a framework for the scope and style of Scrutiny in the City. In so doing the aim for all parties is to help ensure that Scrutiny remains a positive and challenging process.

Background

The overview and scrutiny function was established through the Local Government Act 2000, which introduced new models of governance and decision-making arrangements for local authorities in England and Wales. In these arrangements, the overall role of the overview and scrutiny function is to hold the Executive Board to account for its decisions and to contribute to evidence-based policy development in the Council.

The Health and Social Care Act 2001 first introduced the concept of Local Authority scrutiny of health and required:

- NHS bodies to consult health local authorities about proposed substantial variations to or substantial developments of health services within their areas; and,
- those local authorities with social services responsibilities to establish an Overview and Scrutiny Committee to respond to consultations by local NHS bodies on proposed substantial variations to or developments of services.

Building on the powers to promote community well-being contained in the Local Government Act 2000, the Health and Social Care Act 2001 provides explicit powers for local authorities to scrutinise health services within their areas as part of their wider role in reducing health inequalities. Currently, the Health Scrutiny Board has been designated to act as Leeds City Council's Overview and Scrutiny Committee responsible for undertaking the health scrutiny role

To assist with the planning and development of effective overview and scrutiny of health and health services, the Department of Health published its guidance '*Overview and Scrutiny of Health – guidance*' in July 2003. This guidance is available from the Department of Health's website. It should be noted that the Department of Health is currently undertaking a review of its guidance to reflect identified good practice and developments and changes to the legislation.

Scrutiny Boards (general)

The overall role and function of scrutiny is to hold decision-makers to account and secure improvements in local practice for local people via a contribution to policy development and review. As such, Scrutiny Boards do not have decision-making powers.

Scrutiny Boards will comprise of Elected Members selected to represent the political balance of the local authority. These Members will be the only members of the Board with voting rights and will be selected to serve for a period of 12 months. The membership of the Board will seek to avoid conflicts of interest and where potential for this exists interests of those Members will be declared and subject to the Council's procedures on these matters¹.

¹ Leeds City Council Constitution - Scrutiny Board Procedure Rules Section 2

Scrutiny Boards may seek nominations from other representative groups to act as co-opted members of the Board. These nominations may be for the duration of a municipal year and/or on an inquiry by inquiry basis, as set out in the Scrutiny Board Procedure Rules, Leeds City Council Constitution.

Support arrangements

The Scrutiny Support Unit is the primary source of support for, and co-ordination of, the work of the Council's Scrutiny Boards. In summary, the role of the Scrutiny Support Unit is to:

- Provide a research and intelligence function to individual Scrutiny Boards (each of which has been allocated a different area of specialism)
- Manage programmes of Inquiries for each of the Scrutiny Boards
- Manage the presentation of witnesses, research and reports to Scrutiny Boards and/or carrying out research and reports "in house" as appropriate
- Assist Scrutiny Boards to prepare reports of their Inquiries and steering recommendations through the Council's decision making arrangements
- Lead the continuing development of the Overview and Scrutiny function

HEALTH SCRUTINY IN LEEDS

Overview

Scope

Health scrutiny in Leeds covers all aspects of health and health related services provided to the population of Leeds; this includes the planning, provision and operation of services² commissioned and provided by NHS bodies and the local authority in Leeds. The primary aims of the health scrutiny function are to identify whether:

- health services reflect the views and aspirations of local communities;
- all sections of local communities have equal access to services;
- all sections of local communities have an equal chance of a successful outcome from services; and,
- any proposals for substantial service changes are reasonable.

NHS Trusts

The Scrutiny Board will not manage the performance of NHS Trusts in the City, or provide another form of inspection. Such functions will be undertaken by other external bodies such as, the Commission for Quality Care, the Strategic Health Authority, the National Institute for Clinical Excellence and the Commission for Health Improvement. However, it should be recognised that performance data will often usefully inform Scrutiny inquiries and support the work of the Scrutiny Board in considering the delivery of the objectives of the Local Area Agreement (LAA).

Health Scrutiny will be distinctive in being undertaken by lay, elected representatives and focussed on improving health and well being across Leeds.

² This includes all internally and externally provided services that contribute to the overall health and well-being of the residents and working population of Leeds

Local Involvement Network

The Local Government and Public Involvement in Health Act 2007 gave a duty to all 150 local authorities in England with social services responsibilities, to enable the formation of a Local Involvement Network (LINK).

LINKs will act as the successor to local Patient and Public Involvement Forums (PPIF) but with an extended remit covering social care, and have been established to give communities a stronger voice in how their health and social care services are delivered.

Regulations that established the health scrutiny function³ state that Scrutiny Boards should take account of all relevant information available. Under provisions in the Local Government and Public Involvement in Health Act 2007, this now includes information identified and provided by the LINK. As such, the relationship between the LINK and the Council's Scrutiny Boards will be key.

An important power of the LINK is the ability to refer relevant matters to the appropriate Scrutiny Board⁴. In turn, this places responsibility on the appropriate Scrutiny Board to acknowledge any such referrals and keep the LINK informed about the progress of any agreed actions. The process for dealing with such referrals is set out in a separate guidance note⁵.

A separate guidance note is currently being produced that will set out a common understanding for how the Health Scrutiny Board will work with Leeds LINK. This will provide a framework for the scope and style of this relationship. In broad terms, the Health Scrutiny Board will not seek to duplicate the advocacy role of the LINK and, wherever possible, will seek to avoid any unnecessary duplication within its work programme.

Work programme

Although some matters may arise at short notice the Health Scrutiny Board will publish a forward work programme. The work programme will be considered and, where necessary, revised on a monthly basis. It will subsequently be widely circulate to all key stakeholders.

Where the production of a specific report is requested and/or necessary for a particular Scrutiny Board meeting, then sufficient notice will be given for the preparation of that documentation.

Information to be supplied to the Board

The work of the Health Scrutiny Board will involve a combination of maintaining an overview of local health issues, including developing awareness of what health bodies are doing, and undertaking in-depth inquiries.

To support the work of the Scrutiny Board, it is likely that members of the Board will require a range of information from NHS bodies, including:

- minutes and reports from Trust Board meetings open to the Public;

³ The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations, 2002, HMSO

⁴ As set out in the Local Government and Public Involvement in Health Act 2007 and the Local Involvement Networks Regulations 2008

⁵ Scrutiny Guidance Note: Requests for Scrutiny, Including Councillor Call for Action (CCfA), Local Crime and Disorder Matters, and Health and Social Care Matters.

- advance notification of proposals for substantial development or reconfiguration⁶ of local services;
- notification of current and/or planned service monitoring and review activity within Trusts across the City;
- information of sufficient detail to enable the Board to discharge its scrutiny role and function.

Where confidential information has been requested by the Health Scrutiny Board in connection with their inquiries it is incumbent upon NHS bodies to take all reasonable steps to anonymise this information. Where this is not possible the public must be excluded from the meeting whilst the Scrutiny Board considers the confidential information provided.

NHS Officers

It is acknowledged that NHS officers are responsible to a range of bodies. These include NHS Trust Boards, the Strategic Health Authority, the Department of Health and the emerging local involvement network (LINK).

As an integral and essential method for publicly holding local NHS bodies to account, representatives of NHS bodies will answer questions openly and honestly and provide all information that will assist the Scrutiny Board in its consideration of specific matters, including scrutiny inquiries.

The Director of Public Health (DPH)

The DPH role is one of advocacy and leadership that integrates the three domains of health protection, health improvement and health and social care quality. The DPH has responsibility for producing an independent Annual Report on the health of the local population and is charged with working with primary care and local communities to develop their public health capacity and capability.

To assist the Health Scrutiny Board discharge its role and function, the Directors of Public Health is likely to be a key source of information and is likely to be requested to assist the Scrutiny Board in matters under investigation – both in general terms and where the Scrutiny Board is undertaking a particular inquiry. In cases relating to specific inquiries, this input will usually be outlined in Terms of Reference for an inquiry. In all cases, notification of any input will be given well in advance.

Attending Scrutiny Board Meetings

Prior to Scrutiny Board meetings

Prior to Board meeting, the Chair receives a briefing from the Scrutiny Support Unit on items to appear on the forthcoming agenda. On occasion NHS officers may be requested to attend this or a separate session to enable the Chair of the Scrutiny Board to be briefed ahead of the Scrutiny meeting.

Scrutiny Board meetings

Scrutiny Board meetings are usually held monthly in a committee room in the Civic Hall. However, from time to time meetings will be arranged at different venues – often dictated by the nature of the inquiries taking place.

Where attendance at a Scrutiny Board meeting is required, a reasonable notice period will be provided for NHS bodies to respond. This period will be at least 15 working days notice of the meeting at which attendance is being requested. Where

⁶ Further guidance on the definition of Substantial is provided within this protocol

attendance will require the production of a report then sufficient notice will be given for the preparation of that documentation.

Where the Health Scrutiny Board requests a response from a local NHS body to whom it has made a report or recommendation, that body will respond to the Board in writing within 28 days of the request.

For all Scrutiny Board meetings the Scrutiny Support Unit will endeavour to give approximate times for when items are likely to be discussed. However, as items may over run, there may be a short waiting time.

Conduct at Scrutiny Board meetings

A separate Member/Officer protocol ⁷ has been agreed by the City Council. This will be used as the basis for the conduct of Scrutiny Board Members in their dealings with officers from NHS bodies.

Conduct of Scrutiny Board Inquiries

The role of Terms of Reference

The majority of Scrutiny Inquiries have agreed terms of reference. These identify the subject areas members of the Board wish to pursue and are used to inform departments of the Council and NHS bodies of the emphasis of a particular inquiry.

Officers in the Scrutiny Support Unit will liaise with relevant officers of the Council and NHS bodies during the preparation of Terms of Reference to ensure that the focus of the inquiry is relevant and the timing of it appropriate.

Draft Terms of Reference are usually presented to the Scrutiny Board via a written report. This will provide a basis for discussion between officers and the Scrutiny Board. The Scrutiny Support Unit will advise on the particular information required.

Gathering Evidence

The evidence to be gathered will be outlined in the Inquiry's Terms of Reference. This material may be considered at full Scrutiny Board meetings, which are open to the public, and/or by a small working group of Scrutiny Board, tasked with undertaking a specific evidence gathering task. In the latter case Board Members will report their findings to an appropriate full meeting of the Health Scrutiny Board.

The Scrutiny Support Unit will endeavour to give guidance on what will be asked and sometimes possible question areas will be passed on to allow some time for preparation before the meeting. However, Members may follow a related line of discussion and ask other questions on the day.

Preparation of Reports

At the conclusion of an inquiry, where considered appropriate, the Scrutiny Board will produce a preliminary report. This will be drafted by the Scrutiny Support Unit in conjunction with the Scrutiny Board Chair and agreed by the Board. This report will provide a summary of the evidence submitted, along with the Scrutiny Board's conclusions and recommendations. Where the Health Scrutiny Board is considering making recommendations to the Council and/or an NHS body, it will invite advice from a relevant Chief Officer prior to finalising its report and recommendations.

⁷ Leeds City Council Constitution - Section 5

Publication of Report Findings

Once it has completed an inquiry, the Health Scrutiny Board may make reports and recommendations to the Board of the NHS bodies scrutinised and/or relevant decision-makers with the City Council. Any reports made will also be copied to:

- All witnesses/ organisation that supplied information to the Scrutiny Board during the inquiry
- The appropriate member(s) of the Council's Executive Board
- Leeds Director of Public Health
- Local MPs and MEPs
- The Strategic Health Authority (Yorkshire and the Humber)
- Leeds Local Involvement Network (LINK)
- Local voluntary organisations and/ or other organisations that have expressed an interest in the issues dealt with in the report.
- A copy of the report should also be placed in local libraries, on local authority and Strategic Health Authority websites and made available to other local networks so as to be widely available to members of the public.

Response to Reports

Where the Health Scrutiny Board has sent a report to an NHS body, the NHS body concerned will be required to send its response to the Board within 28 days. The reply should set out the general views of the NHS body on the recommendations, alongside any proposed action or reasons for inaction in response to each specific recommendation made. The NHS response should also be copied to:

- All witnesses/ organisation that supplied information to the Scrutiny Board during the inquiry
- The appropriate member(s) of the Council's Executive Board
- Leeds Director of Public Health
- Local MPs and MEPs
- The Strategic Health Authority (Yorkshire and the Humber)
- Leeds Local Involvement Network (LINK)
- Local voluntary organisations and/ or other organisations that have expressed an interest in the issues dealt with in the report.
- A copy of the report should also be placed in local libraries, on local authority and Strategic Health Authority websites and made available to other local networks so as to be widely available to members of the public.

Consultation with the Scrutiny Board (Health) by NHS Bodies in Leeds

The Health and Social Care Act (2012), subsequently reinforced by the NHS Act 2012 and the Local Government and Public Involvement in Health Act (2007), places a duty local on NHS Trusts, Primary Care Trusts and Strategic Health Authorities to make arrangements to involve and consult patients and the public in planning service provision, in the development of proposals for changes, and in decisions about changes to the operation of services.

The requirement to consult on service changes and/or developments, includes a duty to consult the Health Scrutiny Board where the NHS Body has under consideration any proposal for:

- a substantial development of the health service; or,
- a substantial variation in the provision of such a service in the local authority area.

However, levels of service variation and/or development are not defined in legislation and it is widely acknowledged that the term 'substantial variation or development of health services' is subjective, with proposals often open to interpretation. To assist all parties concerned, the following locally developed definitions and examples of service change/ development have been agreed:

- **Category 1** – ongoing improvement (e.g. proposals to extend or reduce opening hours)
- **Category 2** – minor change (e.g. change of location within same hospital site)
- **Category 3** – significant change (e.g. changing provider of existing services)
- **Category 4** – substantial variation (e.g. introduction of a new service)

In seeking to determine whether a development or variation is substantial, the NHS body concerned and the Health Scrutiny Board will have regard to issues such as (but not limited to):

- the number of people likely to be affected,
- whether changes in the accessibility of services will result; and,
- whether changes in the deployment of the workforce will be necessary.

In addition, any substantial variations or developments of local health care services need to be in the best interests of the local health service and the people it serves, and any consultation with stakeholders needs to be adequate prior to any final decision being made. Where the Health Scrutiny Board has concerns regarding any agreed substantial service changes / developments, there is provision within current legislation for the Health Scrutiny Board to refer matters to the Secretary of State for Health.

Any such referral must be relating to a substantial service change and/or development and should be seen as an action of last resort. The Health Scrutiny Board can refer matters to the Secretary of State for Health where the Scrutiny Board:

- Is concerned that consultation on substantial variations/ developments has been inadequate; and/or,
- Considers that any proposal is not in the interests of the local health service.