
Health and Adult Social Care Scrutiny Committee– 27th March 2013

Joint Report of the Director of Adult, Community and Housing Services, Director of Children's Services, Director of the Urban Environment, the Director of Public Health and the Head of Partnership Commissioning of the Dudley Clinical Commissioning Group

GOVERNANCE: DRAFT PROTOCOL TO SUPPORT WORKING RELATIONSHIPS BETWEEN THE HEALTH AND WELL-BEING BOARD AND THE HEALTH SCRUTINY COMMITTEE

Purpose of Report

1. To consider a first draft of a Protocol to support working relationships between Dudley's Health and Well-Being Board and health scrutiny committee

Background

2. At its meeting of July 23rd 2012, the Shadow Health and Well-Being Board noted the need to consider relevant working Protocols for a range of internal and external relationships as part to its overall Governance arrangements in preparation for the Board's "go- live."
3. The Shadow Board reflected on aspects of these relationships at its Development Session on 6th December 2012. Arising from that session, the Shadow Board acknowledged the need to have clear lines of reporting across a range of relationships within the local health and care system as well as with bodies concerned with wider wellbeing issues.
4. Amongst these relationships, it is proposed that the Health and Well Being Board will need to reflect further on deepening its relationship with:
 - the Safeguarding Boards for children and for adults in Dudley as these will also be on a statutory basis
 - other relevant partnerships such as the Safe and Sound Board and the Local Enterprise Partnership
 - the Local Healthwatch as it begins to report back to the Board on its contact with the public and people who uses health and care services in Dudley
 - Council Scrutiny Committees
5. It will be important that our Dudley community has established clear understanding of these relationships so that the Health and Well Being Board can receive re – assurance and provide challenge as needed as part of a wider quality framework about safeguarding in Dudley as part of the Health and Well Being Board's leadership role for health and care overall. Practically, it may also be important not to burden any of the statutory Boards with more reporting than is necessary to

provide assurance in the system. It is suggested that further work is undertaken on this aspect in the months before “go-live.”

6. It is also proposed that the Health and Well Being Board will clarify and agree its relationship with the Dudley Healthwatch once it is established. Agreeing a Protocol to support this relationship will ensure that no extra burden is imposed in terms of reporting but that Board is able to effectively hear the voice of people using services in Dudley even more strongly following “go-live.”
7. Similarly, although the main focus of this report is Dudley’s health overview and scrutiny committee, the relationship of the Health and Well Being Board with other key scrutiny committees such as the Children’s Committee is one that ought to repay similar approach because of their link to the wider well-being agenda. To that extent, work on the relationship between the Health and Well-Being Board and the health overview and scrutiny committee can be seen as something of a pilot for other Council Committees.
8. The need to establish good governance overall for the Health and Well Being Board has been established through the Department of Health’s National Learning Network for the Health and Well-Being Boards. In addition, at the Shadow Board’s Development Session of 6th December 2012, it was noted that the Centre for Public Scrutiny has published a helpful guide on roles and relationships to add value amongst partners available at:
<http://www.cfps.org.uk/publications?item=7195&offset=0>
9. The Appendix to this Report draws on that document in addressing the specific issue of the relationship between the Health and Well Being Board and the local health overview and scrutiny Committee. In Dudley, this is currently the Health and Adult Social Care Scrutiny Committee and this power carries the duties and powers attached to health scrutiny.
10. Health scrutiny has become well established as part of arrangements which have sought to address perceived “democratic deficit” in local health services delivery. The establishment of Health and Well Being Boards is a further step on this overall journey and therefore the need for mutual understanding, co-operation and constructive challenge will be acknowledged by all concerned with the Shadow Board and the Health and Adult Social Care Scrutiny Committee..
11. The draft protocol attached addresses the background to the responsibilities for the Board and the Scrutiny Committee including the statutory and good practice issues attached to the relationship which are not repeated here. The document will be edited following consideration given by the Shadow Health and Well Being Board as well as the Health and Adult Social Care Scrutiny Committee who will also consider this draft in due course. An initial meeting of the Chairs of the Shadow Board and the Health and Adult Social Care Committee along with relevant officers has taken place on 16th January 2013 to discuss the relationship.

Finance

9. Any financial implications arising from the content of this Report will be met from within existing budgets between the agencies.

Law

10. The background to the development of Health and Well Being Boards and their roles and responsibilities lies in the guidance issued to date leading up to the enactment of the Health and Social Care Act 2012.

Equality Impact

11. Improving the health of the local population and the quality of local health services are statutory responsibilities of partners in the Health and Well Being Board. The Shadow Board has considered a Report on a draft Joint Health and Well Being Strategy which will be a main driver alongside the Health Inequalities Strategy to address inequalities in access and outcomes for all people.

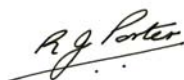
Recommendation

12. That the Committee -

- Authorise the Chair to confirm a final version of the draft Protocol following comment made by the Shadow Board and the Chairs meeting with the Chair of the Health and Adult Social Care Scrutiny Committee and officers
- Endorse proposals to develop protocols to cover the Board's relationships with the Dudley Safeguarding Vulnerable Adults Board, the Dudley Safeguarding Children's Board, the Dudley Healthwatch and other Council Scrutiny Committees such as the Children's Committee.

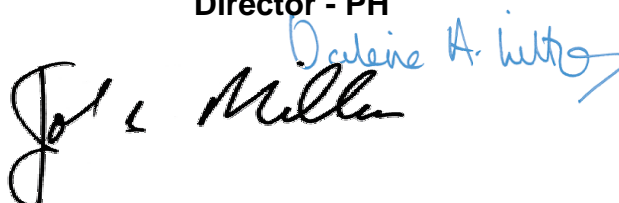


Andrea Pope- Smith
Director – DACHS

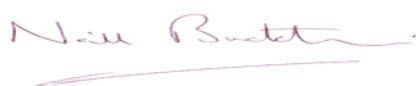


Jane Porter
Director – DCS

Valerie Little
Director - PH



John Millar
Director – DUE



Neill Bucktin

Head of Partnership Commissioning - Dudley Clinical Commissioning Group

Contact Officers:

Brendan Clifford
Assistant Director – DMBC DACHS
Sue Holmyard
Assistant Director – DMBC DUE
Josef Jablonski
Principal Officer – DMBC CRD

Ian McGuff
Assistant Director – DMBC DCS
Neill Bucktin
Associate Director – Dudley CCG
Karen Jackson
Public Health Consultant

APPENDIX

DRAFT PROTOCOL TO SUPPORT WORKING RELATIONSHIPS BETWEEN THE HEALTH AND WELL-BEING BOARD AND THE HEALTH SCRUTINY COMMITTEE

Introduction

Health and Well-Being Board

HWBB is an executive function of the Authority and is responsible for identifying current and future health and social care needs through Joint Strategic Needs Assessments; and developing Joint Health and Wellbeing Strategy to set local priorities, providing a framework for the commissioning of local health and social care services

HWBB will be a Committee of the Authority with a view to strengthen democratic legitimacy through the involvement of elected representatives and patient representatives in commissioning decisions.

Health Scrutiny

Whilst individual Board members will be held to account in different ways (for example, clinical commissioning groups are authorised and assessed by the NHS Commissioning Board) HWBB can also be collectively held to account for their effectiveness through the independent LA health scrutiny function - this continues to be delivered through the scrutiny committee format specifically the Health and Social Care Scrutiny Committee..

HASC sets its own priorities for scrutiny to reflect the people's needs and acts across the health community; using pathways of care to hear views from across the system and examining priorities and funding decisions across an area to help tackle inequalities and identify opportunities for integrating services.

HealthWatch

Local Healthwatch (LHW) will build on the LINK legacy and will look to represent the collective voice of people who use services and the public.

It will build up a local picture of community needs, aspirations and assets and the experience of people who use services and report any concerns about services to commissioners, providers and council health scrutiny. Through its seat on the HWBB, LHW will present information for the JSNA and discuss and agree with other members on the Board JHWBS.

A stand-alone protocol governing the relationship between LINK and HASC already exists. This will be retained and updated for LHW - HASC's main reality-check mechanism to test whether experiences are really improving.

New Guidance

New health scrutiny regulations governing LA processes are expected Jan/Feb 2013. These will be based on the legacy of the 2002 regulations which in Government's view

have, overall served the system well. Supporting guidance will assist a deeper understanding of respective roles and relationships across the reformed system which in turn will help shape new practices and approaches.

Framework for scrutiny

The challenge facing the Health and Wellbeing Board will be whether they can deliver shared collective leadership across local organisational boundaries. Increasing financial pressures, rising demand and complex organisational change will test the leadership skills of the board.

It is recognised effective scrutiny of the board will strengthen the board's accountability and authority. This Protocol has been developed in partnership with HWBB in order to provide a framework for that scrutiny to take place - along with setting some clear guidelines to govern the scrutiny-executive relationship.

Purpose

The aim of the Health Scrutiny Protocol is to agree and set out working arrangements/guidelines principally between HASC and the HWBB on how to best deliver the responsibilities and duties placed on them and in this way maximise effectiveness health and well being services across Dudley's communities.

Management of LHW relationship is not explicitly covered in this agreement in view of the development of a stand-alone HASC LHW protocol which updates the current HASC LINK agreement.

The protocol looks to build on the following fundamental principles:

- Improved health and social care are a common goal;
- Early discussions are vital to ensure no one is left out;
- Everyone has responsibility to develop relationships, not just to engage formally;
- Good relationships lead to good communication, identifying where value can be added;

and specifically looks to:

- ensure roles are used to add value so as to collectively improve outcomes in health and well-being and tackling health inequalities through commissioning intentions and other approaches;
- ensure that these services meet the needs of all community groups
- embed good working relationships between scrutiny and the Health and Well-Being Board and its constituent Commissioners ;
- embed a mutual understanding about the role of health scrutiny
- reach agreement about specific procedures and approaches and definitions in the light of emerging guidance.
- complement not duplicate work across interested parties

The protocol will need to be refined to take account of the on-set of new regulations governing LA health scrutiny and connected guidance. It will also be subject to annual review by agreement with all interested parties in order to continually improve the scrutiny process.

Administration

HWBB will

1. Provide information relating to the planning, strategy and commissioning intentions of the HWBB that HASC requires so that it can carry out its functions including reviewing and critique for health scrutiny reviews
2. Provide the HASC with that information when requested
3. Respond to HASC review reports
5. Provide HASC with annual report of activity at least once a year.
8. Provide a single point of contact for members and support officer.
9. Commit, where appropriate to providing a report on a single topic area (e.g. smoking cessation; obesity; mental Health) so as to consider the issue within a strategic context across organisational boundaries
10. Ensure that all acronyms are explained
11. Commit to attending agenda planning meetings as required
12. Commit to at least 1 joint meeting a year enabling strategic steer of the HASC's work plan reflecting HWWB priorities

HASC will

1. Co-ordinate the development of a rolling work-programme in consultation with key health and social care bodies including HWWB
2. Arrange for agendas, reports and minutes to be distributed to established circulation lists at least 5 working days before the meeting
3. Invite the representatives to the meeting giving adequate and appropriate notice.
4. Give at least two weeks notice of requests for information
5. Provide a lead officer/single point of contact for all the trusts
6. Engage with a wide range of local community groups/stakeholders and colleagues from across Health and Social Care to support the work of the committee and advise HASC as appropriate.
7. Undertake an induction programme on change of membership
9. Prepare an annual report setting out the HASC's work in that municipal year and reporting against the agreed work programme.
10. Ensure that all acronyms are explained as an appendix to any papers/reports or recommendations.
11. Commit to at least 1 joint meeting a year enabling strategic steer of the Committee's work plan reflecting HWWB priorities

Scrutiny Reviews

1. HWBB to co-operate with Health Scrutiny Reviews as the scope impacts HWBB and constituent bodies .
2. HWBB co-operate with the evidence gathering through written submissions/seminars/workshops/Chairs briefings as required
3. HWBB/constituents support the development of emerging action plans.

Duty to Consult on Substantial Developments/Variations to Services

- 1, Procedures and approaches in this area will stipulated by new scrutiny regulations expected Jan/Feb which may include:
 - requirement for local authorities and the NHS to agree and publish clear timescales for making a decision on whether a proposal should be referred;
 - new intermediate referral stage to the NHS Commissioning Board for some service reconfigurations;
 - requirement for local authorities to take account of the financial sustainability of services when considering a referral, in addition to issues of safety, effectiveness and the patient experience; and
 - requirement for health scrutiny to obtain the agreement of the full council before a referral can be made.
2. Subject to publication of the new scrutiny regulations, however NHS bodies are still required to consult HASC where it is considering a substantial development of/or variation to the health service.
3. This remains subjective area and is ultimately a judgement of the HASC. In view of the lack of prescriptive guidance it is advised that the definition is agreed locally across stakeholders.
4. As such HWBB is asked accord with the broad guidelines below when considering referring a substantial development or variation to services:

The proposed development or variation must:

- Affect Dudley residents as service recipients or as carers of service recipients, both current and/or potential recipients.

And Involve one or more of the following:

- the provision of a new service (except for the piloting of new services)
- the permanent closure of a service
- A major expansion or significant reduction of a service
- A change in the location where patients would receive an existing service
- A switch in the management and/or provision of a service as between primary acute and specialist care setting.
- A change in the way in which people gain access to a service.
- An expansion or restriction in the degree of choice that patients have about the location and nature of a service.
- Levy on individuals where none had previously applied.

NB. It is important to note that changes such as those highlighted above may be necessary due to significant quality and/or safety concerns. In these circumstances the relevant commissioner(s) will inform the HASC as to the reasons for any changes as soon as is reasonably possible.'

5. A HWBB representative will attend the relevant agenda meeting with the relevant service lead(s) to discuss the issue with the Chairman in order to determine the impact of proposals; and establish how best to engage scrutiny in the process.

Roles

HWBB

1. HWBB and constituent commissioner will accord with the NHS duty to involve and consult as per Health and Social Care Act which updates section 242 and 244 of the NHS Act 2006. Subject to the new regulations this requires NHS bodies to consult scrutiny committees, to attend these committees when requested to answer questions, to respond to their requests for written information and to respond to scrutiny committee reports and recommendations within 28 days of the request of the committee.

HASC

2. HASC has a unique democratic mandate to act across the whole health economy. Scrutiny has a clear role at every stage of the commissioning cycle, from needs assessment through commissioning to service delivery and evaluation of health outcomes. They are responsible for holding decision makers (Decision makers - HWBB, Commissioners CCGs/ NHS CB/Council and providers) to account
3. HASC has its own terms of reference based on the current scrutiny regulations. Its work programme is set annually and increasingly encourages scrutiny of specific health and well-being topics e.g. smoking cessation so that a strategic approach can be taken, across organisational boundaries in tackling health inequalities in the borough.

Communications Plan

HWBB will

1. Consult with and provide information to the HASC at an early stage on its key commissioning intentions and plans for substantial developments or variations pertaining to the remit and terms of reference of the HWBB. These should where possible be identified at the annual joint meeting/during the work planning cycle.
2. Inform the panel members of these consultations in sufficient time for them to comment
3. Consult at an early stage on the business of any joint meeting(s)
4. Send the HASC Chair and any other members who request them HWBB papers and documents
5. Through its chair or lead officer maintain regular contact with the Committee through regular Agenda Planning Meetings and commit to attending additional Chair's briefings as needed.
6. Prepare responses for questions sent in advance of scrutiny meetings

HASC will:

1. Send the panel agendas, reports and minutes plus any associated papers to the Chair and any other members or officer who may request them.
2. Send draft scrutiny reports, including scrutiny review documents, on matters relating to HWBB and member commissioners so that they may have the opportunity to comment before finalisation of the report.
3. Consult with and make available to the HWBB their programme of work
4. Identify a link officer to facilitate HWBB colleagues
5. Though its Chair maintain regular contact with the Chair and Lead Officer of the HWBB
6. Familiarise themselves with the subject under scrutiny/review.
7. Send any questions for scrutiny meetings at least 1 week in advance

Measuring Success

1. It is envisaged this agreement will contribute to the establishment of successful working and relationships described below which, in turn can be used to test the effectiveness of agreement over time:
 - **Health and wellbeing board** members are committed to working with others with clear lines of accountability. They encourage open and honest discussions about the challenges faced by all partners in the new landscape and have dealt with any conflicts quickly and openly. By actively seeking and sharing information, the Board has developed a comprehensive analysis of health and social care needs and assets.
 - Balancing those needs against national and local policy it has developed a robust strategy to improve health and social care and reduce inequalities which is well understood and accepted. They work constructively with health scrutiny, welcoming their involvement. People who use services and the public are central to the Board's work, and people understand how local agencies are improving health and social care outcomes.
 - **Council health scrutiny** has influenced health and social care in a variety of ways by encouraging transparency, involvement and accountability throughout the planning and delivery of services. Officers and councillors shared their experience and knowledge during transition so that relationships could be built. It's pro-active reviews of health and social care themes provide timely evidence and constructive recommendations to commissioners and providers. Health scrutiny is involved very early on in discussions about reconfiguration of health services and takes a view about whether changes are in the interests of local health services. It acts as a 'bridge' between elected members, professionals and communities, so that solutions are identified together

- **Other Scrutiny Committees relevant to HWBB - The Council is reviewing its overall Scrutiny arrangements** during 2012-13. Currently, it is the case that issues which the HWBB may consider might also be the subject of interest to other Scrutiny Committees such as Children's Services Scrutiny Committee. A practical approach within the spirit of this protocol will be taken to the way in which issues are identified and carried forward.

First Draft: December 2012