
Protocol between the West Berkshire Health Scrutiny Committee and local health bodies

Committee considering report:	Health Scrutiny Committee
Date of Committee:	10 November 2021
Portfolio Member:	Councillor Howard Woollaston
Date Portfolio Member agreed report:	19 October 2021
Report Author:	Gordon Oliver
Forward Plan Ref:	OSMC/HSC

1 Purpose of the Report

The report presents a draft protocol that sets out how the West Berkshire Health Scrutiny Committee will work together with bodies who commission or provide health and wellbeing services to residents of West Berkshire.

2 Recommendation(s)

The Committee is recommended to:

1. Endorse the draft protocol and the process for dealing with proposed substantial developments of variations to health services.
2. Authorise consultation with local health partners on the above, with a view to bringing a final version back to Health Scrutiny Committee for approval.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	There are no financial implications arising from this report.
Human Resource:	There are no HR implications arising from this report.

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Legal:	There are not Legal implications arising from this report. The protocol sets out an approach to working with health partners, which is consistent with current legislation.			
Risk Management:	There are no risks arising from the report. The protocol should actually reduce risks by providing clarity on what constitutes substantial variations or developments in delivery of health services and ensuring that proper scrutiny of such proposals takes place.			
Property:	There are no property implications associated with the report.			
Policy:	The report is consistent with national guidance on health scrutiny. The proposed protocol will help to achieve effective health scrutiny, which in turn will help to ensure that the priorities and objectives of the Berkshire West Joint Health and Wellbeing Strategy are delivered.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		The protocol will help to ensure that the needs of all service users are taken into account when variations or developments in health services are proposed.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		
Environmental Impact:		✓		There are no environmental impacts arising from this report.

Health Impact:	✓			The protocol will help to ensure effective health scrutiny of proposed variations and developments in health services that are considered likely to have substantial impacts for residents of West Berkshire.
ICT Impact:		✓		There are no ICT impacts arising from this report.
Digital Services Impact:		✓		There are no digital services impacts arising from this report.
Council Strategy Priorities:	✓			<p>The protocol will help to ensure effective health scrutiny of proposed variations and developments in health services that are considered likely to have substantial impacts for residents of West Berkshire.</p> <p>This in turn will support the Council Strategy priority to 'support everyone to reach their full potential'. In particular, it will help with the following areas:</p> <ul style="list-style-type: none"> - improve the health and wellbeing of our residents - improve mental health and wellbeing
Core Business:		✓		There are no core business impacts arising from this report.
Data Impact:		✓		There are no data impacts arising from this report.
Consultation and Engagement:	It is proposed to consult health partners on the draft Health Scrutiny Protocol.			

4 Executive Summary

4.1 This report sets out the draft Protocol between the West Berkshire Health Scrutiny Committee and local health bodies responsible for the commissioning and provision of health and wellbeing services to the residents of West Berkshire.

- 4.2 The terms of reference for the Health Scrutiny Committee (as agreed at Full Council on 4 May 2021) require it to develop such a protocol.
- 4.3 The protocol is intended to improve engagement between the Committee and local health bodies and to guide the process for assessing whether proposes variations or developments in health services are considered to be ‘substantial’ and therefore require the Health Scrutiny Committee to be consulted.
- 4.4 The proposed document is based upon advice provided by the Centre for Governance and Scrutiny.
- 4.5 It is proposed to consult local health bodies on the draft Protocol prior to adoption. This is considered essential in order to secure their buy-in to and support for the approach set out in the Protocol.

5 Supporting Information

Introduction

- 5.1 This report sets out a draft Protocol relating to how the West Berkshire Health Scrutiny Committee (HSC) will work together with bodies who commission or provide health and wellbeing services to residents of West Berkshire.
- 5.2 The Protocol incorporates the working principles which guide and support the relationship between the scrutiny body and those commissioning or providing health and wellbeing services.
- 5.3 It also provides a process for assessing whether a proposed variation or development in health services is considered to be ‘substantial’ and therefore triggering formal consultation with HSC.

Background

- 5.4 The role of HSC is to undertake scrutiny of the planning, development and operation of Public Health and NHS services for citizens of West Berkshire, in accordance with the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- 5.5 Its functions include considering and responding to consultations by relevant NHS bodies or health service providers, on proposals that both parties agree constitute a substantial development or substantial variation in the provision of health services for citizens of West Berkshire, using the powers set out in the relevant legislation and referring to any guidance issued by the Secretary of State for Health.
- 5.6 The Terms of Reference for HSC state that it will: *‘develop and maintain a joint protocol about how the Health Scrutiny Committee and responsible NHS bodies and health service providers will reach a view as to whether or not a proposal constitutes a “substantial development” or “substantial variation”’.*

Proposals

5.7 A draft protocol has been prepared and is included in Appendix A. The aim of this protocol is to provide:

- Improved engagement and communication across all parties;
- Clear standards which set out how all parties will work together;
- Greater confidence in the planning for service change, to secure improved outcomes for health services and communities across West Berkshire.

5.8 The Protocol is intended to represent an agreement between West Berkshire's HSC which represents the interests of West Berkshire Council and its residents, and those bodies who commission and provide health and wellbeing services for the population

5.9 The draft Protocol sets out the following as proposed shared goals:

- Deliver high quality, sustainable health and wellbeing services that meet the needs of the West Berkshire population.
- Improve the health and wellbeing outcomes for local people, including ensuring activity addresses health inequalities and aligns with the Berkshire West Health and Wellbeing Strategy.

5.10 It also proposed a number of working principles as follows:

1. There is a "no surprises" approach between the organisations concerned. This builds collaboration whilst also allowing scrutiny to constructively challenge strategic decisions.
2. There is a climate of mutual respect and courtesy, noting one another's independence and autonomy.
3. Proposals and recommendations are based on appropriately sourced, recognised and clearly presented evidence. This includes relevant clinical evidence.
4. The views and priorities of local people are gathered and considered in the development of proposals, in scrutiny and in decision making.
5. The overview and scrutiny approach is transparent, collaborative, constructive and non-confrontational. It is based on asking challenging questions and considering evidence.
6. There is recognition and respect for the difference which may arise around what constitutes 'best outcomes' for the local population.
7. Feedback from overview and scrutiny to health and wellbeing organisations is documented and well communicated.

- 5.11 A key element of the draft Protocol relates to determining whether or not a proposed variation or development in health services is ‘substantial’ and therefore requires the HSC to be consulted.
- 5.12 Whether a development or variation in health services is deemed ‘substantial’ is not precisely defined in legislation or Government guidance, and so a degree of judgement is required. The impact of the change on patients, carers and the public is the key concern.
- 5.13 The draft protocol sets out the factors that should be taken into account. It also defines a number of different ‘levels’ of change, with relevant examples of each level, as well as the actions that a health body would be expected to undertake in terms of engaging the HSC and the processes to be followed.
- 5.14 It should be noted that the proposed protocol would involve authorising the Chairman, in consultation with the Vice-Chairman and any relevant non-voting advisory members, forming an initial view as to whether a proposal change was considered ‘substantial’. Such discussions would be supported by the Principal Policy Officer (and Legal Officer as appropriate) and would be reported to the next meeting of the Committee.
- 5.15 The draft Protocol also sets out what would happen in the event of disagreement between the HSC and the health body, as well as the circumstances in which the Committee would not need to be consulted.
- 5.16 The document largely follows the template adopted by the Oxfordshire Joint Health Overview and Scrutiny Committee. Given that both authorities fall within the same Integrated Care System (ICS), it makes sense to try to harmonise protocols and approaches wherever possible. Discussions with the Health Scrutiny Officer at Oxfordshire suggests that their protocol has been effective, and is well understood and observed by health partners.
- 5.17 It is proposed that local health bodies be consulted on the draft protocol, including the Berkshire West Clinical Commissioning Group, Berkshire Healthcare NHS Foundation Trust, Royal Berkshire NHS Foundation Trust.

6 Other options considered

- 6.1 The requirement to develop a Protocol is set out in the HSC Terms of Reference, so to ‘do nothing’ is not considered to be an option.
- 6.2 The Committee could choose to prepare a protocol in a different format and wording, but as mentioned in 5.14 above, there are clear advantages to having a consistent approach to other local authorities within the ICS, so this option is not preferred.

7 Conclusion

- 7.1 Creation of a Health Scrutiny Protocol would be a positive step in terms of improving communication between the HSC and local health bodies and agreeing the actions and processes to be followed whenever a change in local health services is proposed.

- 7.2 Consultation with local health bodies prior to adoption is considered essential in order to secure their buy-in to and support for the approach set out in the Protocol.

8 Appendices

Appendix A – Draft protocol between the West Berkshire Health Scrutiny Committee and commissioners and providers of health and wellbeing services to the population of West Berkshire.

Background Papers:

None

Wards affected: All wards

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