A protocol for working together between :

- **Sunderland Overview and Scrutiny**
- **Sunderland Health & Well-Being Board**
- **Sunderland Healthwatch**
- **Sunderland Clinical Commissioning Group**
- **NHS England**

Contents

Joint Statement

This protocol has been developed by the above parties in recognition of the importance placed on working together effectively, recognising that there are shared and mutual benefits of doing so, and in recognition of the legal duties and responsibilities placed on organisations in relation to:

- Meeting local needs
- Improving the health and well-being of the local population
- Being representative of the views of the local population
- Providing value of money
- Being accountable to service users

Set within the context of a common and significant set of challenges, we can only achieve our aims by working together.

We will seek to create a sense of common purpose and alignment between all those working across the health and social care system. We will seek to support a shared system of innovation and joint planning, underpinned by a commitment to commissioning focused around the needs of patients, users of care services and communities.

Collaboration must go beyond the words written in this document: it will be embedded into the way we work.

Signed on behalf of

Signed on behalf of

Signed on behalf of

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Introduction

All signatories to this protocol have clear and distinct roles. This protocol outlines the responsibilities and duties of each and provides a framework for all signatories to work together with the aim of reducing unnecessary administrative burdens and duplication.

It provides an overarching framework for joint working, and particularly, an information sharing agreement between partners in the first year of operation. This will be essential to assure effective, rapid and timely exchange of information between each partner and supports the other information sharing protocols which are in place in Sunderland between partner agencies.

This protocol does not override the statutory duties and powers of any organisation and is not enforceable in law.

Principles

The signatories are committed to putting people first and, in ensuring that services meet the needs of the people using the services, we will:

- Be committed to ensuring the quality of services provided
- Have open and transparent dealings with each other
- Work in partnership to improve services
- Use resources effectively and efficiently
- Ensure individual activities are complementary and reduce duplication

All parties to this protocol acknowledge the principle of putting patients, service users, carers and local people at the centre of everything we do through embedding public engagement activity at all levels and that this is reflected in decision-making processes.

Ways of Working

Between HWBB and CCGs

HWBBs have a strategic influence over commissioning decisions across health, public health and social care. CCGs must demonstrate they have taken on board the priorities of the JHWB Strategy in the delivery of commissioning decisions. The HWBB will agree a forward plan which will determine which commissioning decisions need to come to HWBB at the appropriate stage in the commissioning process,

Between decision makers (HWBB/CCGs) and Scrutiny

Scrutiny is responsible for ensuring that decisions relating to the planning and delivery of health care are accountable to residents. This includes the statutory responsibility on health bodies to consult health scrutiny on proposals for substantial developments or variations to the local health service. Decision takers will ensure that scrutiny is informed of and able to effectively scrutinise key decisions of the HWBB, CCGs and NHS England.

Scrutiny also engages actively with service users and HWBB may wish to refer issues to health scrutiny in order for those issues to be fully investigated, and to provide recommendations for improvement. Many scrutiny reviews have identified recommendations aimed at reducing health inequalities and it has been demonstrated that NHS commissioners have been able to use the evidence that has been gathered when designing services to provide an extra level of assurance as to the quality of their services. There would be a mutual benefit in the HWBB considering recommendations from scrutiny policy reviews.

Relationship between NHS England, HWBB/CCG and Healthwatch

Healthwatch is responsible for ensuring that the citizens have a voice in the planning, commissioning and delivery of health and social care services. Healthwatch has a scrutiny and challenge function in relation to local commissioners and providers and will provide a level of accountability in the decision-making process through membership of the HWBB.

Relationship between Healthwatch and Health Scrutiny

Health Scrutiny and Healthwatch serve complementary roles in ensuring that health and social care is accountable to, and meets the needs of, local residents. Both Scrutiny and Healthwatch have a responsibility to monitor the quality and performance of service provision. Local Healthwatch will be able to alert Healthwatch England to concerns about specific care providers. CQC and NHS England will work with local scrutiny to hold providers to account. Healthwatch may refer social care matters to scrutiny when deemed appropriate.

Information Sharing Arrangement

Principles of information sharing:

- Information will be communicated in a timely way ensuring adherence to good practice and agreements or constitutional or legislative timescales on consultation.

- Information will be communicated in plain language, in an appropriate format and exclude the use of jargon, acronyms, concepts, or anything that is not generally understood by partners and/or our local population.

All parties to this protocol will seek to communicate information with each other in a way that enables each organisation to carry out its functions effectively. Partners to this protocol will reserve the right to define what constitutes relevant information in the context of forward and strategic planning within their own organisation however the basis of this protocol is a presumption that information is to be shared.

In particular parties to this protocol will endeavour to share:

a) Information relating to circumstances where changes to services are to be made. This may be within the definitions of substantial variations of service (see Appendix 2).
b) Proposals for plans, policies and strategies (this may be in the context of shared annual work programmes)
c) Information on progress against improvements and the quality of services provided
d) Development of commissioning intentions
e) Information of proposed public or user/carer engagement and consultation plans (in accordance with requirements of the Duty to Involve) and, where appropriate, significant health, well-being and social care issues arising from engagement activity.
f) Draft reports where appropriate in order to ensure accuracy.

Engaging with service users

All parties to this protocol recognise that they have both joint and separate approaches to engaging with service users and members of the public. Wherever possible all parties will ensure that such health, well-being and social care engagement activity is jointly planned and co-ordinated within the partnership and individual frameworks of the parties, to ensure maximum coverage and capacity, to avoid duplication and 'consultation fatigue' and to ensure appropriate quality and outcomes.

Implementation and Review

The protocol may be amended at any time by agreement between partners. The protocol will be reviewed and evaluated, and where appropriate, the protocol will be updated to take account of any changes to legal responsibilities.

Reviews will be undertaken by the scrutiny function and a tool for checking progress is attached as Appendix 3.

The first review of the Protocol will take place in six months.

Key to Abbreviations

JHWBS – Joint Health & Well-Being Strategy

JSNA – Joint Strategic Needs Assessment

HWBB – Health & Well-Being Board

HW - Healthwatch

OSC – Overview and Scrutiny

Appendix 1

Role and Function of Individual Bodies

Overview and Scrutiny

Overview and Scrutiny has the powers to:

- Hold decision makers to account
- Challenge and improve performance
- Support the achievement of value for money
- Influence decision makers with evidence based recommendations
- Bring in the views and evidence of stakeholders, users and citizens

Councillors on scrutiny committees have 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. Scrutiny members are responsible for holding decision makers, i.e. HWBB, Commissioners i.e. CCGs Council's, NHS England and providers, to account ensuring that:

- the planning and delivery of healthcare reflects the views and aspirations of local communities (by scrutiny of JSNA, JHWB Strategy, Commissioning Plans & Delivery strategies)
- all sections of a local community have equal access to health services; (by scrutiny of organisations, service delivery, performance against outcomes)
- all sections of a local community have an equal chance of a successful outcome from health services (by bringing together views across the system, examining priorities and funding decisions across an area to help tackle inequalities and identify opportunities for integrating services)
- proposals for substantial service change are in the best interests of local people (NHS bodies have a statutory responsibility to consult health scrutiny on proposals for substantial developments or variations to the local health service).

The Sunderland Scrutiny Committee is governed by terms of reference set out in Sunderland City Council's Constitution – Part 2, Article 6.

Health & Well-Being Board

The Health and Social Care Act 2012 required local authorities to set up health and wellbeing boards as committees of the council by April 2013. They are therefore to be treated as if they were committees appointed by the council under section 102 of the Local Government Act 1972.

The intention, however, is that HWBB will be different from the normal council committee as they are meant to be forums for collaborative local leadership. Health and wellbeing boards have strategic influence over commissioning decisions across health, public health and social care.

Health and wellbeing boards are forums where key leaders from the health and care system work together to improve the health and wellbeing of their local population and reduce health inequalities. Health and wellbeing boards are made up of clinical commissioning groups, local authorities, representation from the area team of NHS England, patient representatives, public health, local Healthwatch and children's and adult social care leaders to shape local health and care services, decide how they will be commissioned and support joined-up working across health and care services.

The HWBB will develop a shared understanding of the health and wellbeing needs of the community through the Joint Strategic Needs Assessment (JSNA) and develop a joint health strategy for how these needs can be best addressed. This will include recommendations for joint commissioning and integrating services across health and care.

Through undertaking the JSNA, the HWBB will drive local commissioning of health care, social care and public health and create a more effective and responsive local health and care system. Other services that impact on health and wellbeing such as housing and education provision will also be addressed.

HWBB's strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning decisions alongside commissioners across health and social care. HWBB's will also provide a forum for challenge, discussion, and the involvement of local people.

The Sunderland Health and Well-Being Committee is governed by terms of reference and rules of procedure set out in Sunderland City Council's Constitution – Article 12

Sunderland Healthwatch

The Government's intention for people who use health and social care services is "no decision about me, without me".

Local Healthwatch organisations will provide an authoritative, coordinated local consumer voice to help both commissioners and providers of services to develop high quality responsive services. They will also provide a valuable source of information about services to local people and make sure those who need help to access information in order to make appropriate choices are supported to do

so. They will be the place to go for people who need help to make a complaint about NHS treatment and care

Local Healthwatch will continue the functions previously provided by Local Involvement Networks (LINks), which cease to exist when Local Healthwatch comes into being. Healthwatch will be the independent consumer champion for the public i.e. service users, citizens, carers and patients, to promote better outcomes in health for all and in social care for adults.

At the local authority level, Local Healtwatch will have a seat on local health and wellbeing boards to influence commissioning decisions by representing the views of local stakeholders. Local Healthwatch will contribute authoritative, evidence-based feedback as part of the commissioning and decision-making for local health and social care services.

As a corporate body, Local Healthwatch will be able to employ its own staff, as well as continue the LINk legacy of recruiting volunteers. Building on the LINks' functions to involve and engage, to enter and view premises providing care to service users the following list describes the additional functions for local Healthwatch.

- Influencing
- Signposting
- NHS Complaints Advocacy
- The local HealthWatch 'Offer' to Health and Wellbeing Boards, to the Social Care Reform Programme and to the Public Health Reform Programme

Local Healthwatch can help and support Clinical Commissioning Groups and NHS England to make sure that services really are designed to meet citizens' needs. Involvement in developing the JSNA and the JHWS provides an extensive on-going opportunity for community engagement through local Healthwatch and the community and voluntary sector. Both Scrutiny and Healthwatch have a responsibility to monitor the quality and performance of service provision. Local Healthwatch can alert Healthwatch England to concerns about specific care providers. CQC and NHS England will work with local scrutiny to hold providers to account.

Healthwatch England

The Health and Social Care Act 2012 Act provides for the establishment of Healthwatch England as a statutory committee of the Care Quality Commission. Healthwatch England will be a new national body representing the views of users of health and social care services, other members of the public and Local Healthwatch organisations.

Sunderland Clinical Commissioning Group

The Health and Social Care Act 2012 Act makes CCGs directly responsible for commissioning services they consider appropriate to meet local needs. This includes the majority of local hospital and community services. NHS England will directly commission some services including specialised services and primary care services.

CCGs and the NHS England are subject to a number of duties which put patient interests at the heart of everything they do. These include specific duties in relation to promoting the NHS Constitution; securing continuous improvements in the quality of services commissioned; reducing inequalities; enabling choice and promoting patient involvement; securing integration; and promoting innovation and research. CCGs will have to work with local partners to be effective. Both CCGs and the NHS England will be required to obtain advice from people with a broad range of professional expertise.

The 2012 Act contains a number of duties, aimed at aligning CCG commissioning plans with the Joint Health and Wellbeing Strategy: CCGs must involve the health and wellbeing board when preparing their commissioning plan or making revisions to their commissioning plans that they consider significant. In particular, they must give the HWBB a draft of the plan and consult as to whether it considers the draft plan has taken proper account of the local JHWS.

In its annual report, the CCG has a statutory obligation to review the extent of its contribution to the delivery of any local JHWS to which it was required to have regard – in preparing this review the CCG must consult the relevant health and wellbeing board.

Success of a CCG will rely considerably on the support of the constituent local practices, as well as the trust of patients and the public. Patients need to feel confident that commissioning decisions are based on sound clinical evidence and are free from vested interest. The practices represented by the CCG will need to satisfy themselves that they are content with the process followed and decisions taken by their CCG on their behalf. Local accountability is therefore essential.

NHS England (formerly known as the NHS Commissioning Board).

NHS England will be responsible for ensuring comprehensive and effective commissioning of services by CCGs.

NHS England will support CCGs by providing guidance and tools to enable them to commission effectively. As outlined above it will also commission those services it would not be possible or

appropriate for CCGs to commission – such as primary care services, although CCGs will play a key role in driving up the quality of primary medical care locally. It is expected that NHS England will support and commission local primary care services which reflect the context of the JHWS and which are developed in consultation with the HWBB.

In undertaking its annual performance assessment of a CCG, NHS England must include an assessment of how well the CCG has met the duty to have regard to the relevant JSNA and JHWS. In conducting the performance assessment, NHS England must consult the health and wellbeing board as to its views on the CCGs contribution to the delivery of any JHWS to which it was required to have regard.

CCGs will be held to account for their decisions by NHS England against a Commissioning Outcomes Framework, which will ensure transparency and accountability for achieving quality and value for money.

Appendix 2

Substantial variation, consultation and Overview and Scrutiny Committees

NHS bodies are required to make arrangements to involve and consult patients in planning services, developing and considering proposals. In addition, NHS bodies are required to consult the relevant Overview and Scrutiny Committee (OSC) on any proposals for substantial variations or developments of health services. Where OSCs consider proposals to be substantial variation a 'formal consultation' will take place (12 weeks). There is no standard definition of "substantial", however the key feature relates to whether there is a major change to the patient experience of services. NHS organisations are encouraged to discuss proposals with OSCs at an early stage and establish whether a proposal is considered a substantial variation. Joint Overview and Scrutiny Committees (JOSCs) are established where proposals affect more than one OSC.

The Secretary of State has outlined four tests for service change in the Operating Framework 2010-11. All proposals for reconfiguration of services must demonstrate:

- support from GP commissioners;
- strengthened public and patient engagement;
- clarity on the clinical evidence base; and
- consistency with current and prospective patient choice.

All schemes need to meet these four criteria with the application of a "test of reasonableness".

- Reconfiguration should only happen on the basis of need and a sound clinical case for change
- The quality and safety of patient care should be central to any proposed change
- All proposals must clearly demonstrate how they contribute to the QIPP challenge for the NHS
- Service changes should be in line with the strategic service framework
- Commissioners should normally lead the preparation and consultation on service change proposals
- A senior clinical lead should be identified at the outset, and should have support to help them ensure that clinicians are involved in the development of proposals for change
- Boards are accountable for the formulation and delivery of proposals. They should actively champion proposals at every phase; development, consultation and delivery
- The lead organisation, usually the CCG, has overall accountability and responsibility for the service change and should take its own advice on legal matters relating to the specific service change scheme

Before embarking on the process, it is important to have a clear evidence-based communications and stakeholder engagement strategy (including with staff), which is managed and effectively delivered including putting the results of a consultation into the public domain following its conclusion. There must be effective communication processes in place to respond to and, where necessary correct, any misleading information which enters the public domain, to promote an effective understanding of the proposals for change

Early discussion with Overview and Scrutiny Committees regarding service change is recommended. The local authority retains the power of referral to the Secretary of State to ensure the effective provision of comprehensive health services.

Appendix 3

A tool for checking progress

Understanding of roles and responsibilities influences good working relationships and performance	
Indicators – working well	**Indicators – not working well**
A clear understanding of roles, powers and responsibilities	Lack of distinction of roles and poor understanding of where boundaries lie
Governance documents are easy to understand and are reviewed regularly	Governance documents are out of date and do not support good understanding of roles and responsibilities
An atmosphere of trust, commitment, and open challenge has been developed.	Lack of understanding, engagement, or preparedness has created barriers
Partnership decisions are open to effective scrutiny	Underdeveloped arrangements for scrutiny of partnerships decisions
Shared responsibility and the principal of 'equality round the table'	Lack of respect for each others roles
Common goals to deliver outcomes	Focus diverted away from achieving outcomes
Behaviour and conduct influence good working relationships and performance	
Indicators – working well	**Indicators – not working well**
Culture of trust and respect	Mistrust and lack of respect
Commitment to agreed priorities	Relationships too close and decisions made without proper challenge or debate
Prepared to listen to reservations and seek to resolve them	Failure to review and revise ways of working based on sticking points.
Acting consistently within agreed strategic direction	No clear definition of what success will look like and outcomes to be delivered
Partners have the capacity to be fully engaged	Failure to use all skills, knowledge, access to resources of partner groups
Recognition of the value each group brings (through referral, consultation, debate)	Lack of understanding and respect for other partners' points of view, cultures and structures.
Honesty between all partners, based on sharing, rather than withholding information	
The provision of guidance, information and support influences good working relationships and performance	

Indicators – working well	Indicators – not working well
Recognition of the benefit of developing knowledge and skills and individuals feel well supported by training and guidance	Poor briefing material, information to support decision taking and accountability
Consistent, clear communication, consciously avoiding language which may be specific to individual professions or organisations	Use of organisational and professional jargon
Seeking out examples of good practice, and sharing research.	Insular approach with poor networking
Partners are happy about the accuracy, regularity and timeliness of the information	Weak alignment between partnership and corporate plans, targets and delivery
Expertise is used to collect the views of service users actively, systematically, and imaginatively	Lack of robust user engagement and poor use of service user feedback
information about the way service users and carers feel is collected through everyday service delivery and reported back automatically	limited opportunities or willingness to challenge the performance of partners or give feedback on performance
Arrangements are in place for communications between meetings	Lack of monitoring or evaluation of the effectiveness and impact of partnership
Partnership is supported by an agreed work programme and / or action plan showing who will do what, by when	Poor performance management and lack of ways of dealing with non-performance
Activities effectively support delivery of the desired outcomes	limited use of impact or outcome measures, progress monitoring and reporting tends to focus on input and activity targets rather than outcomes;