SCRUTINY COMMITTEE **16 JANUARY 2014**

EFFECTIVE HEALTH SCRUTINY IN SUNDERLAND

REPORT OF THE CHIEF EXECUTIVE

1. Purpose of Report

1.1 To consider the role of the council's Scrutiny Function in light of the Francis Inquiry into the failure of care at the Mid-Staffordshire NHS Foundation Trust.

2. Background Information

2.1 The Mid Staffordshire NHS Foundation Trust Public Inquiry (known as the Francis Inquiry) examined the appalling care and serious failings at Stafford Hospital between 2005 and 2008. The number of excess deaths between 2005 and 2008 was estimated at 492 people. Examples of poor care included patients being left in soiled bedclothes for lengthy periods, lack of assistance with eating and drinking, filthy wards and toilets and a lack of privacy and dignity.

2.2 The report describes the failings as a 'disaster' and 'one of the worst examples of bad quality service delivery imaginable'. The Inquiry looked at the hospital and the roles of the main organisations with an oversight role including the Department of Health, the Strategic Health Authority, the Primary Care Trust, national regulators, other national organisations, local patient and public involvement and health scrutiny. The Francis Inquiry report made 290 detailed recommendations.

2.3 The report attributes accountability for the appalling care at Stafford Hospital to the Trust Board, but also points to a systemic failure by a range of national and local organisations to respond to concerns. This includes the two local authorities who have both publicly acknowledged that they could have done more.

2.4 The primary means for local authorities to hold health care providers accountable is through the use of the health scrutiny powers available to them. Given that the council's scrutiny function holds these powers, there would be a reasonable expectation that if similar problems identified in Stafford were happening in Sunderland (and the report indicates that this should not be regarded as a one-off event that could not be repeated elsewhere in the NHS), the council would be aware and take strong early action. Consequently, the council's Scrutiny Function needs to operate as effectively as possible and to this end there is potential to learn lessons from the comments and recommendations relating to health scrutiny made in the Francis Inquiry report.

3. Francis Report Recommendations in Relation to Health Scrutiny

3.1 Chapter 6 of the Francis Inquiry specifically relates to patient and public involvement and scrutiny. The inquiry took evidence from councillors and senior officers with responsibility for health scrutiny in Staffordshire and the report goes into some detail in its observations and comments concluding that "the local authority scrutiny committees did not detect or appreciate the significance of any signs suggesting serious deficiencies at the Trust".

3.2 In its commentary on the role and operation of health scrutiny in Staffordshire, the report identified a number of issues:-

- A lack of detail in notes of some scrutiny meetings – the report commented "It is unfair to councillors and obstructive to public involvement and engagement for there to be no record of the contributions made by the committee's members whether by way of observations or questions, and of responses given.";

- An over-dependency on information from the provider rather than other sources, particularly patients and the public, and the need to be more proactive in seeking information. Councillors from Stafford Borough Council's Health Scrutiny Committee accepted the Committee "..did not get underneath what the representatives from the hospital were telling it. Chief Executives usually talk up an organisation and put on a positive gloss. If the same happened again, then I would look deeper and ask questions to the people below, e.g. nurses, doctors and consultants.";

- Questions about the expertise of some health scrutiny members – for example the report commented that neither the Committee nor the Council had the expertise to mount an effective challenge to the Trust's cost cutting proposals, and that there are occasions when lay people need expert assistance in interpreting information. Similarly, scrutiny of the Trust's Foundation Trust application was unchallenging with councillors accepting that the process was meaningless;

- Scrutiny can be better conducted at arms-length rather than as a 'critical friend' – the report suggests that there is a tendency to be deferential towards local trusts and this can make challenging the quality of local health services more difficult;

- A lack of resources, particularly in small borough committees; and

- The distinction between 'operational' and 'strategic' matters being essentially false, when all that really matters is the outcomes for patients.

3.3 The first recommendation of the Inquiry is that '**all commissioning, service provision, regulatory and ancillary organisations in healthcare should consider the findings and recommendations of this report and decide how to apply them to their own work'**. The report recommends that each

organisation outlines its response and reports on its progress on a regular basis.

3.4 A number of recommendations have a direct impact on health scrutiny:

No.	Francis Report Recommendation
47	The Care Quality Commission should expand its work with overview and scrutiny committees and foundation trust governors as a valuable information source. For example, it should further develop its current 'sounding board events'.
119	Overview and scrutiny committees and Local HealthWatch should have access to detailed information about complaints, although respect needs to be paid in this instance to the requirement of patient confidentiality.
147	Guidance should be given to promote the coordination between Local HealthWatch, Health and Wellbeing Boards, and local government scrutiny committees.
149	Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.
150	Scrutiny committees should have powers to inspect providers, rather than relying on local patient involvement structures to carry out this role, or should actively work with those structures to trigger and follow up inspections where appropriate, rather than receiving reports without comment or suggestions for action.
246	Department of Health/the NHS Commissioning Board/regulators should ensure that provider organisations publish in their annual quality accounts information in a common form to enable comparisons to be made between organisations, to include a minimum of prescribed information about their compliance with fundamental and other standards, their proposals for the rectification of any non-compliance and statistics on mortality and other outcomes. Quality accounts should be required to contain the observations of commissioners, overview and scrutiny committees, and Local HealthWatch.

3.5 There are also a number of other related recommendations and comments relating to patient and public involvement in health services, the monitoring of data, communication between bodies and with the public, the introduction of fundamental standards of basic care, and the duty of all in healthcare organisations to be truthful when providing information to regulators and commissioners.

3.6 The Government's response to the recommendations was published in November 2013. All of the recommendations highlighted in the table above were accepted, with the exception of 150 which was accepted in part.

3.7 In addition to the Mid-Staffordshire incident, a series of high profile cases have highlighted major failures to provide basic care, cases of abuse and the impact of performance on quality of care in health and adult social care. There

is a renewed focus on outcomes and the quality of care in the commissioning of services has become increasingly important.

4. Health Reforms

4.1 There has been considerable change in the health sector involving changes associated with the recent NHS reforms and increased local authority involvement in the planning of health services. The independent role of scrutiny provides an opportunity to add value to these new arrangements by providing an added level of challenge and assurance.

4.2 The powers and duties in relation to the operation of health scrutiny are outlined in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

4.3 The challenge will be to ensure that locally there are processes in place to monitor quality and safety to achieve a high level of assurance for Members by effective use of the increased powers for health scrutiny, particularly its ability to require attendance at committee from any provider of NHS funded services (public sector or otherwise), balanced with the need to understand whre the most value can be gained to maximise the outcomes of the scrutiny function as well as being complementary to the new bodies set up as part of NHS reform.

5. Integrated Health and Social Care

5.1 Earlier this year the Government announced its intention to provide funding which will involve a single pooled budget for health and social care services to work more closely together in local areas, based on a plan agreed between the NHS and local authorities. The aim of the health and social care Integration Transformation Fund (ITF) is to improve the patient experience, improve outcomes and create efficiencies. The goal is to achieve fuller integration of health and social care for the benefit of the individual.

5.2 Whilst the ITF does not come into full effect until 2015/16 the council and the CCG have already started the dialogue and work to support transformation. A local plan should be developed by March 2014, which will set out how the pooled funding will be used and the ways in which the national and local targets attached to the performance-related funding will be met. Plans for the use of the pooled monies will need to be developed jointly by CCGs and local authorities and signed off by each of these parties and the local Health and Wellbeing Board.

5.3 The Scrutiny Function has a role in monitoring the development of integrated health and social care and what it means in practice for residents as further details emerge, as this approach will effectively mean that the Scrutiny will have an overview of the whole health environment to ensure a comprehensive and coordinated approach to the provision of health and social care.

6. Current Local Arrangements and Future Improvements

6.1 Whilst some of the recommendations made in the Francis Report would require legislative changes, for example giving scrutiny inspection powers, other issues highlighted can inform and improve the way in health scrutiny operates in Sunderland immediately.

6.2 Previously health scrutiny was undertaken by the council's Health and Wellbeing Scrutiny Committee. Significant changes to the structure of the scrutiny function in 2012 reduced the seven scrutiny committees to one overarching Scrutiny Committee supported by six informal Scrutiny Panels. The Scrutiny Committee is the designated Scrutiny Committee for statutory health scrutiny and is supported in undertaking this by the Public Health, Wellness and Culture and the Health Housing and Adult Services Scrutiny Panels.

6.3 There are four main providers of health services in Sunderland-

- City Hospitals NHS Foundation Trust delivering acute and community services;
- Northumberland Tyne and Wear NHS Foundation Trust delivering mental health and disability services;
- South Tyneside NHS Foundation Trust delivering community health services; and
- North East Ambulance Service.

6.4 Existing oversight is undertaken by the Scrutiny Committee which commission's the relevant scrutiny panels at the beginning of each municipal year to undertake in-depth topic based reviews, in respect of issues that have been raised by the public, elected members, officers and partners.

6.5 Sunderland's Scrutiny Function has established a good working relationship with local health commissioners and providers, and this will provide a sound platform for future work.

6.6 **Appendix 1** lists the relevant Francis recommendations and summarises the current good practice that will be maintained, and some areas for development. Should the Scrutiny Committee endorse the review, a more detailed action plan will be developed giving appropriate timescales in order to monitor progress.

7. Conclusion

7.1 There is scope for general improvement of the approach to health scrutiny and increased clarity of responsibility locally, both in terms of how health scrutiny operates in and outside of the council, and in conjunction with new

partners in the health system. Additionally, integrated health and social care will open up further opportunities for overview of services.

7.2 Sunderland's Scrutiny Function already has a significant amount of experience and knowledge, as well as strong relationships in the health arena. The report and suggested actions will therefore form the basis of the future development of the Scrutiny Committee's statutory role for health related matters.

8. Recommendation

8.1 The Scrutiny Committee is recommended to comment upon and endorse the proposed actions for improvement to the scrutiny of health services in Sunderland, as outlined in **Appendix 1.**

9. Background Papers

- Safety Quality Trust: Briefing for Council Scrutiny about the Francis Report (CfPS, 2013)
- Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013
- Statement on the health and social care Integration Transformation Fund (LGA / NHS England 2013)

Contact Officer: Name Helen Lancaster, Scrutiny Coordinator
Email Helen.lancaster@sunderland.gov.uk

Appendix 1

Evaluation of Current Health Scrutiny Arrangements

No.	Francis Report Recommendation	RAG Rating
47	**The Care Quality Commission (CQC) should expand its work with overview and scrutiny committees and foundation trust governors as a valuable information source. For example, it should further develop its current 'sounding board events'.**	**AMBER**
	There have been several attempts in recent years to improve relationships and dialogue between regional and local scrutiny and the CQC. This has proved to have had limited success to date. The CQC has outlined plans to maintain a strengthened and more consistent level of formal and informal contact with local partners and is hosting a regional event in January 2013 to start this. Scrutiny's role is not to inspect a raft of services, nor is there the capacity to do this. To a large extent the Scrutiny Committee will rely on the CQC to advise as to where it can add the most value. In this regard the development of relationships will be crucial. **Suggested improvements:** 1. Attend and contribute to the event hosted by the CQC in early 2014; 2. Develop relationships with local leads; 3. Provide the CQC final policy reviews looking at adult social care / NHS services; 4. Provide the CQC with comments from the Scrutiny Committee in regard to Quality Accounts; and 5. Respond to further engagement and proposals from the CQC going forward.	
119	**Overview and scrutiny committees and Local HealthWatch should have access to detailed information about complaints, although respect needs to be paid in this instance to the requirement of patient confidentiality.**	**AMBER**

	The key opportunity to scrutinise complaints of NHS services currently is through the Quality Account process whereby scrutiny is consulted prior to publication. Whilst the information given is of a higher level, scrutiny has the opportunity to drill down further into aspects of complaints without compromising data protection, and it is proposed this should be routinely carried out, with advance notification to partners to enable them to prepare appropriately. One area which could be further developed is the scrutiny of primary care services (General Practitioners). It is suggested that the Scrutiny Committee could liaise with Healthwatch to capture any emerging trends and issues and act as appropriate. Sunderland Healthwatch will also play a key role in uncovering trends and themes around complaints to NHS services through its links and networks within the community and across other VCS partners. To this end the communication between Healthwatch and Scrutiny will be pivotal. There is a statutory obligation for the council to report on complaints regarding children's and adult social care. With the advent of the formation of the People's Directorate, there now exists the opportunity to improve the breadth of information available to the Scrutiny Committee. **Suggested Improvements:** 6. Request more detailed information regarding complaints prior to consultation in respect of Quality Accounts (notwithstanding the need to protect personal and sensitive data). Ensure effective questioning in regard to complaints during the consultation; 7. Liaise regularly with Healthwatch to identify emerging trends in regard to complaints, particularly around primary care; and 8. Ensure effective scrutiny of adult and children social care complaints through a streamlined People Directorate report.	
147	**Guidance should be given to promote the coordination between Local HealthWatch, Health and Wellbeing Boards, and local government scrutiny committees.**	**AMBER**
	Within the health reforms it is important to be clear on the respective roles of different partners. A key role for health scrutiny is to focus on providing quality assurance and in-depth policy reviews	

	A 'Health Protocol' developed by the scrutiny function is an overarching framework of principles and approaches for information sharing and collaboration between key partners including the council, the Health and Wellbeing Board, the CCG, NHS England and Sunderland Healthwatch. This is now being implemented, and a review will be undertaken in early 2014 to evaluate its impact. Health and Wellbeing Boards are held on a monthly basis and, as a committee of the council, are open to anybody who wishes to observe. Regular attendance of scrutiny members at the Health and Wellbeing Board would enable more effective links to be made between the work of the Board and the work of scrutiny. The Scrutiny Committee met with representatives, including the Chair of Healthwatch at its meeting in November to discuss how to collaborate in a way which will maximise capacity, effectiveness and impact. Ongoing meetings will be held with the Chair and Vice Chair to maintain communication and information sharing. Healthwatch will also attend Scrutiny Committee when there are relevant health items on the agenda as an observer and will also contribute to evidence gathering during in-depth policy reviews. **Suggested Improvements:** 9. Review the impact of the Health Protocol in 2014 and make any necessary adjustments to resolve identified issues; 10. Build upon the early relationship established with Healthwatch with regular communication; and 11. Improve the links with the Health and Wellbeing Board through the regular attendance of a Scrutiny Committee member(s) as an observer(s).	
149	**Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.**	**AMBER**
	Support for scrutiny is primarily provided through the Scrutiny and Area Arrangements Service. Link	

	officers / partners are identified as part of policy review work, which has proved to be very useful in sourcing evidence, information and guidance. It will be important to continue to utilise the option to co-opt independent 'experts' to the Scrutiny Committee or supporting Panels. Training has been provided to members at a regional and sub-regional level in the last 18 months, focusing on the health reforms. A further event is planned in January 2014 which will be followed up with a tool kit which will be designed to meet the knowledge and information needs of elected members. Members should be equipped with the right information to effectively scrutinise the issue at hand therefore there should be an increased use of appropriate benchmarking and understandable data. The Government's drive to integrate health and social care services is a key future area of consideration for scrutiny and as such progress should be monitored in order to develop a better understanding of what this means for those accessing services. **Suggested Improvements:** 12. Ensure scrutiny member representation at the regional health event planned in early 2014; 13. Ensure scrutiny members access and utilise the member toolkit; 14. Increase the use of benchmarking and understandable data available to members when it is required; and 15. Monitor developments in regard to the integrated health and social care agenda.	
150	**Scrutiny committees should have powers to inspect providers, rather than relying on local patient involvement structures to carry out this role, or should actively work with those structures to trigger and follow up inspections where appropriate, rather than receiving reports without comment or suggestions for action.**	**NO ACTION REQUIRED**

	The main inspectorate is the CQC, and in addition Healthwatch can undertake Enter and View visits. These are effectively mini inspections undertaken by rigorously trained community representatives who are able to pick up on the quality and essence of care issues. Clearly a government response is required to this recommendation, however as noted previously collaboration with the CQC and Healthwatch will enable the Scrutiny Committee to have a better awareness of any issues within local health services (refer to actions 1-6, and 11).	
246	**Department of Health/the NHS Commissioning Board/regulators should ensure that provider organisations publish in their annual quality accounts information in a common form to enable comparisons to be made between organisations, to include a minimum of prescribed information about their compliance with fundamental and other standards, their proposals for the rectification of any non-compliance and statistics on mortality and other outcomes. Quality accounts should be required to contain the observations of commissioners, overview and scrutiny committees, and Local HealthWatch.**	**AMBER**
	With the exception of policy review work, the main vehicle for quality checking services in the NHS is through the Quality Account process and is the key opportunity for the Scrutiny Committee to provide its views on performance and future priorities. The scrutiny of Quality Accounts could be improved by earlier consultation at the stage of drafting priorities (notwithstanding the role of the Health and Wellbeing Board) and also by scrutinising the draft Quality Account (or the supporting evidence) at the earliest possible stage, and with a reasonable amount of time to do so. The scrutiny commissioning model allows the Scrutiny Committee to request the relevant panel to undertake more detailed work in regard to Quality Accounts on its behalf. By effectively utilising the model the capacity of the scrutiny function is significantly increased. The scrutiny work programme should reflect any potential commissioning to the Public Health, Wellness and Culture Panel in the latter part of the municipal year. Healthwatch are also consulted in regard to Quality Accounts. It is suggested good practice for local	

	scrutiny committees to work with Healthwatch colleagues to produce a draft statement. In effect a joint statement enables the widest possible view of quality to be given. There is less certainty in relation to Trusts that cover several / all areas of the region. The Regional Health Scrutiny Committee has considered the North East Ambulance Service's Quality Account, but this does not happen on a consistent basis. **Suggested Improvements:** 16. Work with providers to establish the opportunities to improve scrutiny of quality accounts by; being consulted at the stage of drafting priorities; and early consultation on the draft Quality Account (or at least the main body of evidence) at the earliest possible stage, and with a reasonable amount of time to do so; 17. Ensure the scrutiny work programme for 2014/15 is flexible enough to accommodate the commissioning of quality account consulation to the Public Health, Wellness and Culture Panel.	