

TITLE	Potential implications of the Francis Report for the Health Overview and Scrutiny Committee
FOR CONSIDERATION BY	Health Overview and Scrutiny Committee on 25 November 2013
WARD	None Specific
STRATEGIC DIRECTOR	Julie Holland, Interim Head of Business Assurance and Democratic Services

OUTCOME / BENEFITS TO THE COMMUNITY

To identify the key potential implications for overview and scrutiny from the Mid Staffordshire NHS Foundation trust Public Inquiry (the Francis Report) and for the Health Overview and Scrutiny Committee to identify any areas of further development for health scrutiny in Wokingham.

RECOMMENDATION

That

- 1) the Health Overview and Scrutiny Committee consider the findings of the Francis Inquiry insofar as they relate to health scrutiny and determine if any changes to the operation or approach to health scrutiny in Wokingham are required to ensure that it operates as effectively as possible.
- 2) a Working Group be established to look at the next steps the Committee may wish to take in response to the recommendations and lessons from the Francis report on the Mid Staffordshire NHS Trust and report back to a future Committee meeting.

SUMMARY OF REPORT

The second and final report of the public inquiry into Mid Staffordshire NHS Foundation Trust was published on 6 February 2013 and made 290 recommendations.

The Report made a number of comments and recommendations regarding the scrutiny function which the Committee are asked to consider, to ascertain if there are any areas of scrutiny practice which require development.

Background

The Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis Inquiry) was established to look at poor care and failings at Stafford Hospital between 2005 and 2008. Examples of inadequate care identified included patients being left in soiled bedclothes for some time, a lack of dignity and privacy and unclean wards. As well as looking at the hospital the Inquiry examined the role and actions of organisations including the Department of Health, the Strategic Health Authority, the Primary Care Trust, Care Quality Commission, Monitor, local patient and participation organisations and local authority scrutiny.

The Report acknowledged that what happened with the Mid Staffordshire Trust was not just a failure by the organisation. It also highlighted a systematic failure by a number of national and local organisations, including the scrutiny committees of Stafford Borough Council and Staffordshire County Council, to respond sufficiently to concerns put forward regarding patient care and safety.

The report covered the following key areas:

- Warning signs
- Governance and culture
- Roles of patient and public involvement group, commissioners, Strategic Health Authority, scrutiny and regulatory bodies
- Themes for the present and the future

Francis Report and Scrutiny

Chapter 6 of the Francis Report 'Patient and Public Involvement and Scrutiny examined the interaction between the Trust and public and patient representatives. The Report stated that 'it might have been expected that concerns about the standards of service would have first become apparent through these channels...In practice, alarm bells were not rung by this route, or at least not sufficiently loudly to provoke any effective reaction.' (6.1)

This chapter examined the role of Patient and public involvement bodies, LINKs, the local health scrutiny committees, MPs and local media outlets.

The Report concluded that the Stafford Borough Council and Staffordshire County Council Overview Scrutiny Committees had not effectively fulfilled their scrutiny roles with regards to the Mid Staffordshire NHS Foundation Trust. The Report identified a number of issues regarding the role and operation of scrutiny which are summarised below:

- Lack of clarity about the roles and responsibilities of the Borough Council and County Council scrutiny committees with regards to scrutinising and holding the Trust to account.
- Committees' minutes, particularly those of the Borough Council meetings were 'brief to the point of being uninformative' (6.202).
- Little or ineffective challenge offered, with Members often passively receiving and noting information and reports.
- Not making use of alternative sources of information to challenge the Trust and being over reliant on information supplied by the Trust itself.
- Little use was made of other sources of information such as complaints data.

The scrutiny committees did not appear to consider the implications of, or follow, the Health Care Commission's investigation into the Trust and showed a lack of interest in mortality rate data.

- Lack of prioritisation of issues for scrutiny and insufficient significance attached to information put forward by members of the public.
- No attempt was made to engage with the public or to seek their views and slow to acknowledge the Cure the NHS campaign.
- Committee members lacked appropriate expertise and did not have sufficient resources and support available to enable them to carry out their role.

Recommendations relating to scrutiny:

The key recommendations for scrutiny from the Francis Report are detailed below:

Recommendation 43 – *Those charged with oversight and regulatory roles in healthcare should monitor media reports about the organisations for which they have responsibility.*

Recommendation 47 – *The Care Quality Commission should expand its work with overview and scrutiny committees and Foundation Trust governors as a valuable information resource. For example it should further develop its current 'sounding board' events.*

Recommendation 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 for patient confidentiality.*

Recommendation 147 – *Guidance should be given to promote the co-ordination and co-operation between local Healthwatch, Health and Wellbeing Boards, and local government scrutiny committees.*

Recommendation 149 – *Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.*

Recommendation 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 suggestion for action.*

Recommendation 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 or 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 and Local Healthwatch.*

Government's initial response to the Francis Report:

The Government's initial response to the Francis Report '*Patients First and Foremost: The Initial Government Response to the Report of The Mid Staffordshire NHS*

Foundation Trust Public Inquiry was published in March 2013. Many recommendations were accepted in either in their entirety or in principle.

The initial response highlighted the following regarding the role of local authorities and scrutiny:-

The Health and Social Care Act 2012, gave local government three critical new roles with regards to health, enhancing and extending its previous role:

- Leading locally on public health;
- Strengthened leadership role with regards to the wider local health and social care system, through Health and Wellbeing Boards; and
- Establishing local Healthwatch as a new consumer champion for health and care.

The unique potential for local government to transform outcomes for local communities by means of influencing the wider determinants of health, its ability to shape services so as to meet needs locally and its particular focus on population was highlighted in the response.

Health and Wellbeing Boards have an overview of local health and social care services and guide action to promote general health and wellbeing of residents. Health and Wellbeing Boards are open to scrutiny at a local level.

The Health and Wellbeing Board provides an update to the Health Overview and Scrutiny Committee (HOSC) on its activities on a quarterly basis which affords HOSC the opportunity to scrutinise how effectively the Board is undertaking its responsibilities.

From April 2013 a network of local and regional Quality Surveillance Groups (QSGs) will bring together commissioners, local Healthwatch, regulators such as the Care Quality Commission and Monitor, Public Health and other bodies on a regular basis, to share intelligence and information regarding quality across services, to highlight quality risk and to discuss how any risks will be addressed. Local authorities are represented on the QSGs. A Quality Surveillance Group has been established by the Thames Valley Local Area Team.

Quality Accounts from April 2013 will include comparable data from a set of quality indicators which are linked to the NHS Outcomes Framework. These include infection rates, summary hospital-level mortality indicator and reported levels of patient safety incidents.

All NHS hospitals are expected to detail how they intend to respond to the Inquiry's conclusions before the end of 2013.

A further Government response, containing a detailed response to each recommendation, is expected later in 2013. This response will be informed by the findings of the following reviews commissioned by the Government to examine areas of concern identified in the Francis Report;

- review of the training and support of healthcare and care assistants;
- review of safety practices in the 14 NHS Trusts and Foundation Trusts which were persistent outliers on either or both the Standardised Hospital-level Mortality Index or the Hospital Standardised Mortality Ratio (Keogh Report);
- patient safety review on the safety of patients in England (Berwick Report);

- review of the NHS hospitals complaints system.

Analysis of Issues

Consideration of recommendations and next steps:

In order to ensure that it operates as effectively as possible the Health Overview and Scrutiny Committee should examine the recommendations and comments made in relation to scrutiny and determine if there are areas where scrutiny practice can be strengthened locally.

The Committee:

One of the Francis Report's main criticisms regarding scrutiny was that insufficient challenge was offered to the Trust and that residents' concerns were not pursued when put forward. The Francis Report stated that 'the local authority scrutiny committees did not detect or appreciate the significance of any signs suggesting serious deficiencies at the Trust.' (6.459) The County Council Scrutiny Committee in particular was considered to have been 'wholly ineffective as a scrutineer of the Trust.' (6.351)

The Report emphasises that 'scrutiny ought to involve more than the passive and unchallenging receipt of reports from the organisations scrutinised.' (6.350). Concerns were also expressed that Committee members had not fully understood the roles and responsibilities that scrutiny entailed and as a result had been unable to rigorously challenge and scrutinise the Trust.

These criticisms emphasise the importance of Committee members being adequately briefed and prepared to ensure that scrutiny carried out at committee meetings and through Task and Finish Groups is as effective as possible.

The Committee may wish to consider:

- if reports, presentations and briefings provided are easy to understand by Members without a health background;
- if it is satisfied with the reason for the inclusion of each item on its work programme and that Members are aware of the key issues that will be explored in relation to each item;
- how witnesses are questioned – is a coordinated approach taken and are questions asked focused?
- If it could be more challenging;
- if further or refresher training or briefings in any particular areas would be beneficial.

When producing its work programme Members may wish to identify at an early stage whether there are any topics or issues where additional briefings would be useful.

It is proposed that in future new members of HOSC are provided with clear information regarding the role and responsibilities of the committee, how it operates and key partners following their appointment to the Committee.

Although critical of the Staffordshire scrutiny committees the Report acknowledges that scrutiny does have a part to play in holding the health service to account and as such

should be adequately resourced.

Recommendation 149 put forward that scrutiny committee should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.

HOSC is supported by a Democratic Services Officer. Reports and information are received from expert officers both from within and outside the Council. Training has been previously offered to HOSC and its substitute members specifically on health matters such as the health service reforms and the Health and Social Care Act 2012. More general scrutiny skills training such as formulating terms of reference for scrutiny reviews and making recommendations, has also been offered. Members should consider whether there are any areas where they feel additional training or refresher training would be useful.

The Francis Report was critical of the minutes of the Overview and Scrutiny Committee meetings, particularly those of the Borough Council, which 'register that a topic was discussed and summarise presentations made by external bodies, or formal questions put, but there is no summary of the debate, merely a series of very short reports of any decision taken. In many cases, the decision was often merely to "note" a presentation.' (6.202). The minutes gave little indication of what Committee members contributed to meetings.

HOSC includes a rolling 'tracking note' in its work programme which records when Members make requests for information or ask questions which cannot be answered during the committee meeting. Responses received are recorded on the tracking note in addition to being circulated. Members should consider whether the minutes of meetings adequately reflect discussions and Members' involvement at meetings.

Recommendation 43 proposes that those charged with oversight and regulatory roles in healthcare should monitor media reports about the organisations for which they have responsibility. Members and the supporting officer currently review local and national media reports and inform the Committee of matters which may be of interest or importance to the public. Matters of interest or concern can be added to the Committee's work programme as and when considered necessary.

Recommendation 119 proposes that 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 for patient confidentiality). HOSC does not handle individual complaints. Each healthcare provider and NHS body will have its own complaints process as will Wokingham Borough Council Adult Social Care and Public Health to manage complaints received by or on behalf of service users, unsatisfied at services received. Nevertheless, complaints data can be a potentially useful source of information for scrutiny. Trends and patterns identified can be indicative of a wider problem and can also inform the Committee's work.

The Committee may wish to liaise with the main NHS organisations serving Wokingham and social care to establish the type, frequency and format of the complaints data it may wish to receive. Consideration should also be given to the accessibility of the data and ensuring patient confidentiality.

Working with other accountability mechanisms:

The Francis Report highlights the need to improve working relationships locally between scrutiny and other bodies such as the Health and Wellbeing Board, Healthwatch and the Care Quality Commission (CQC).

Scrutiny has a part to play in the assurance of patient safety and quality and ensuring patient involvement. However, in order to be most effective it must coordinate with, share with and seek information from other bodies such as the CQC and Healthwatch, whilst minimising duplication of efforts.

Recommendation 147 proposed that guidance should be given to promote the co-ordination and co-operation between local Healthwatch, Health and Wellbeing Boards, and local government scrutiny committee.

The Centre for Public Scrutiny produced guidance 'Local Healthwatch, health and wellbeing boards and health scrutiny: Roles, relationships and adding value' regarding the independent, but complementary, roles and responsibilities of Health Overview and Scrutiny Committees, local Healthwatch and Health and Wellbeing Boards, which has been previously circulated to the Committee. The guidance provides a basis for discussions regarding how the bodies would work together in the future.

A joint workshop was held between members of the Health Overview and Scrutiny Committee, the Health and Wellbeing Board and representatives from Healthwatch Wokingham Borough on 5 June 2013 for the purpose of the three bodies discussing how they would work together in the future. Following this, a model of interdependence between the three bodies and a table of their roles and responsibilities and example questions, was produced.

Healthwatch Wokingham attends each HOSC meeting to provide an update on its work and to highlight issues or concerns which have been brought to its attention.

Recommendation 47 of the Report called for the CQC expand its work with overview and scrutiny committees and Foundation Trust governors as a valuable information resource.

HOSC has in the past received updates from the CQC regarding its work regarding providers within the Borough or who provide services used by Wokingham residents. A further update is due to be provided at the Committee's January meeting. The Chairman and supporting officer receive email alerts and links to publications of any public CQC review reports on local providers, which can be shared with the Committee.

It is important that a two way dialogue exists between the Committee and the CQC. The Committee may wish to contact the CQC to consider how it can further develop how it works with the organisation and share information. Consideration may also be given to how the Committee can flag up any concerns it may have regarding the quality or safety of care provided by local health and social care services and how information collected via inspections can inform the Committee's work.

Patients' involvement:

One of the key messages to come out of the Francis Report for scrutiny committees is the importance of proactively seeking to engage with the public and to use the views

and experiences of patients, carers and the general public to inform scrutiny activities and to assist it in holding healthcare providers and commissioners to account.

The Report acknowledged that the Staffordshire scrutiny committees had not proactively responded to or flagged up concerns put by residents. Whilst the Report acknowledged that councillors could not be expected to be healthcare experts, it indicated that councillors should 'be expected to make themselves aware of, and pursue the concerns of the public who have elected them.' (6.351). The committees were over dependent on information received from the Trust and did not actively seek other sources of information such as the views of the public to test what they had been told.

The public are able to submit written questions prior to HOSC meetings in accordance with the procedure detailed in the Council's Constitution. In addition after each main presentation at meetings, members of the public can ask questions relevant to the particular presentation. Questions should be asked through the Chair and should not relate to personal cases. Members of the public are also able to submit suggestions for scrutiny reviews. However, this avenue has been little used.

The Committee may wish to consider how it can further engage with local residents and proactively seek their views on their experiences of the local health services.

For example it may wish to monitor online tools including the following:

- NHS Choices – users can view user reviews and high level information on the performance of individual NHS trusts. Indicators include Friends and Family Test scores (A&E and Inpatient), NHS Choices users rating, Recommended by staff, Responding to Patient Safety Alerts, Mortality Rates, CQC national standards and MRSA rates.
- Patient Opinion – an online review and response tool for patients and relatives to comment on their experiences and for providers to give a response.
- Patients Association – users can rate hospitals on a number of factors including cleanliness, food, communication, helpfulness and friendliness of staff and involvement in decisions about their care.

The Committee may also wish to look at how it engages with the public outside of the committee setting. Members as elected representatives of the community interact regularly with constituents who may give their views on a variety of matters, including the local health service.

Healthwatch was created to be the new consumer champion for health and social care. As such HOSC may wish to work with Healthwatch Wokingham when producing its work programme to identify areas of local interest and concern to ensure the Committee's work focuses on issues which matter to local residents.

Recommendation 150 put forward that 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 suggestion for action.

Scrutiny does not have legal powers to inspect providers at present. Local Healthwatch has the power to 'enter and view' health and social care service premises in order to

observe and assess how effective services provided are. HOSC may also wish to request that Healthwatch Wokingham inform Members of any significant concerns and recommendations coming out of inspection reports, and that the Committee follow these up when necessary.

Quality Accounts:

Overview and Scrutiny Committees and Local Healthwatch are invited to review the Quality Accounts of relevant providers and to provide a comment on the Accounts. HOSC currently comments on the Quality Accounts of the Royal Berkshire NHS Foundation Trust, South Central Ambulance Service NHS Foundation Trust and Berkshire Healthcare Foundation Trust.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	N/A
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision

N/A

Cross-Council Implications

N/A

Reasons for considering the report in Part 2

N/A

List of Background Papers

Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry
 Patients First and Foremost: The Initial Government Response to the Report of The Mid Staffordshire NHS Foundation Trust Public Inquiry
 Safety, Quality, Trust: Briefing for Council Scrutiny about the Francis Report (CfPS)

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