

**An agreement on NHS consultation of
Overview and Scrutiny Committees in**

**Bath and North East Somerset
Bristol
North Somerset
& South Gloucestershire**

January 2004

Introduction

This local agreement is about NHS organisations responsibility to consult Local Authority Health Overview and Scrutiny Committees (OSCs). An agreement has been reached between the OSCs and NHS organisations in Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire.

Because it is based on legislation the agreement is long, complicated and difficult to understand. This explains more simply and quickly the local agreement and how it works.

New Legislation

New legislation was introduced in January 2003 that requires local authorities to review services which affect the health of local communities. This process is usually referred to as 'scrutiny'. Local Authorities have set up Health Overview and Scrutiny Committees (OSCs) to carry out this task. Only Local Authorities which provide Social Services have the power to do this. They often involve other councils (eg District or Town Councils) in OSCs. This legislation is contained in Section 7 of the Health and Social Care Act 2001. Guidance from the Department of Health explains more about this.

OSCs are an important way that locally elected councillors will affect the decision making processes of NHS services. This will help improve the health of local people and reduce health inequalities.

NHS Consultation

The new legislation states that NHS organisations must formally consult their local OSC when a significant change is being planned. This is called a 'substantial variation or development of service'. Each OSC will agree with local NHS organisations where this applies. It is not defined nationally.

The agreement shows how to decide when a change is significant enough to be a 'substantial variation or development of service' – and therefore when an NHS organisation will formally consult the OSC. The agreement is attached to this paper¹.

All OSCs need to be formally consulted if proposed changes affect more than one area. If the NHS is formally consulting an OSC it is good practice to formally consult others too. NHS organisations have a parallel statutory duty to involve and consult patients and the public under Section 11 of the Health and Social Care Act 2000. The agreement covers 4 OSCs, 6 NHS Trusts (including the Ambulance and Mental Health Trusts), 5 Primary Care Trusts and the Strategic Health Authority.

The Agreement

The agreement says that NHS organisations must discuss their proposals for change at an early stage with local OSCs. To help with this there will be an assessment of what impact the proposed changes will have on patients and local communities. It is called an 'Impact Assessment'.

The views of the service provider and of patients, users and carers who may be involved in planning the services are both needed in the Impact Assessment. The NHS service provider will involve a linked patient, user or carer group, or Patient and Public Involvement Forum or relevant voluntary organisation (or a stakeholder group made up from all of these).

The OSC will use the Impact Assessment to decide if the proposed change is significant enough to be a 'substantial variation or development of service' – and therefore require formal consultation with the OSC.

The agreement explains formal consultation with an OSC (and others) must be done before any decisions are made or implementation process starts. The formal consultation period usually lasts for 12 weeks. A proposed plan of consultation activities should be discussed with the OSC in advance.

Impact Assessment

The assessment is undertaken by putting a score against key criteria. The service provider and patients/stakeholders will score separately. Each score will reflect the consensus view of those discussing it. Each score can range from -3 to + 3 (from a very negative to a very positive impact). A zero score means no particular impact. Two sets of scores are recorded for the OSC to look at. The Impact Assessment uses 4 national and 3 locally agreed criteria.

National criteria used are taken from the Department of Health guidance

- Changes in access to a service
- Impact on the wider community
- Patients and carers affected
- Changes to methods of service delivery

Locally agreed criteria are

- Financial implications for the NHS and other organisations
- Other material factors – like impact on other services
- Cumulative effect of smaller changes

Impact Assessments are submitted to the OSC on behalf of NHS organisations by the lead commissioning PCT for the NHS service provided. The agreement explains the submission process and timescales. The chart in Annexe B shows the process.

Joint OSC Committees

Where more than one OSC considers the proposals are a substantial variation or development of service a joint committee will be formed. The NHS organisation will only formally consult this Joint Committee on the proposal for change.

Disputes and Review

All disputes should be resolved locally. However an OSC can refer to the Secretary of State (who can make the final decision) if an OSC believes that the decision made is not in the interests of the local community. This also applies where an OSC believes the consultation process was inadequate.

The agreement and scrutiny process is new and developing. Consequently all the organisations involved will review the agreement annually – or earlier if necessary.

Contacts within the Strategic Health Authority on the agreement and its development are:-

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¹ *An Agreement on the interpretation of Substantial Variation or Substantial Development in Health Services for the purpose of Regulations 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (SI 2202/3048).*