

Implications of the Francis Report for Health Scrutiny

Purpose of report

- 1 To report on the key messages for overview and scrutiny arising from the Mid Staffordshire NHS Foundation Trust Public Inquiry (Francis Report) and consider the relevant recommendations to enable the Committee to identify any areas for development for health overview and scrutiny in Wiltshire.

Background

- 2 The setting up of the Francis Report was announced in June 2010. It was chaired by Robert Francis QC, and the final report was published in February 2013. It followed an earlier inquiry, published in February 2010, which contained damning criticism of the care provided by the Trust.
- 3 The terms of reference of the report included the requirement to examine the actions of the Department of Health, the local Strategic Health Authority, the local PCTs, Monitor, the Care Quality Commission, the Health and Safety Executive, local scrutiny and public engagement bodies and the local Coroner.
- 4 The report considered the evidence of over 250 witnesses, over a million pages of documentary evidence and put forward 290 recommendations. Whilst the report attributed accountability for the failures at Stafford Hospital to the Trust Board, it also pointed to the systematic failure of a wide range of national and local bodies to respond to the concerns raised about patient care.

The Francis Report and Overview and Scrutiny (O & S)

- 5 Chapter 6 of the report relates to patient and public involvement and scrutiny. The inquiry took evidence from councillors and senior officers with responsibility for health scrutiny in Staffordshire. The report goes into some detail in its observations and a number of the recommendations made relate directly to overview and scrutiny.
- 6 With regard to the role of O & S, the report highlighted that in the Mid Staffordshire case, both Stafford Borough Council and Staffordshire County Council had an O & S role in relation to the main trust hospital through their respective O & S Committees, and relevant legislation and guidance set out that such committees have an important role to play in looking at safety and quality issues affecting their community.
- 7 The report highlighted that neither of the O & S Committees had properly fulfilled that role and was particularly critical of Staffordshire County Council's Committee which was considered to have been 'wholly ineffective as a scrutineer of the Trust'. It acknowledged that councillors cannot be experts in

healthcare but pointed out that councillors should 'be expected to make themselves aware of, and pursue, the concerns of the public who have elected them'.

- 8 In its commentary on the role and operation of Stafford Borough Council's O & S Committee, the report identified a number of issues:
- a) Committee minutes were formalistic and did not record the content of discussion, giving no indication of scrutiny having taken place,
 - b) The Committee raised some concerns, but did not have the expertise to mount any effective challenge to the proposals presented to it, resulting in very little challenge to what it was told,
 - c) It received reports without comment or suggestions for action,
 - d) It confused the duties of others to process individual complaints with its task to scrutinise the Trust,
 - e) It did not seek information about the Trust, rather it waited for bodies to come forward.

- 9 The report also identified a number of issues in its commentary on the role and operation of Staffordshire County Council's O & S Committee:

The Committee:

- a) failed to make clear where responsibility lay for scrutinising the Trust,
- b) confined itself to the passive receipt of reports,
- c) made no attempt to solicit the views of the public,
- d) made little use of other sources of information to which it could have gained access, such as complaints data,
- e) showed a lack of interest in some key data on mortality rates,
- f) showed little reaction to the concerns raised by CURE ('Cure the NHS – a campaigning group of families),
- g) took no steps to consider the implications of the announcement of an investigation by the Healthcare Commission or to follow its progress.

Key recommendations within the Francis Report for O & S

- 10 Of the 290 recommendations made in the report, the seven set out below have implications for O & S.
- 11 Recommendation 43 - Those charged with oversight and regulatory roles in healthcare should monitor media reports about the organisations for which they have responsibility.
- 12 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.
- 13 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.

- 14 Recommendation 147 - Guidance should be given to promote the co-ordination and co-operation between local Healthwatch, Health and Well-Being Boards and local government scrutiny committees.
- 15 Recommendation 149 - Scrutiny Committees should be provided with appropriate support to enable them to carry out their scrutiny role including accessible guidance and benchmarks.
- 16 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 inspection reports without comment or suggestions for action.
- 17 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 response to the Francis report

- 18 The Government published its initial response to the Francis Report in March 2013. It has accepted most of the recommendations either in principle or in their entirety.
- 19 With regard to the role of local authorities and overview and scrutiny, the response has highlighted the unique potential local government has to transform outcomes for local communities by its particular focus on population and its ability to shape services to meet local needs and influence the wider determinants of health.
- 20 The Health and Social Care Act 2012 established health and wellbeing boards which have an overview of health and care services and take action to promote population well-being. The establishment of such boards is intended to improve outcomes and increase accountability in health.
- 21 Health and wellbeing boards are open to scrutiny by O & S committees in their localities.
- 22 In addition, from April 2013 a network of local and regional Quality Surveillance Groups (QSGs) will bring together commissioners, regulators, local Healthwatch representatives and other bodies on a regular basis to share information and intelligence about quality across the system and proactively spot problems. Local authorities will be represented on these groups which will be key in raising any concerns about quality and considering the action to be taken, although it is not clear at this stage who will represent the local authority.

- 23 There is to be one agreed national definition of quality which will take account of, and reflect, local commissioners' priorities. This will provide a single set of expectations for hospitals and all providers will be expected to demonstrate through their annual Quality Accounts (QAs) how well they are meeting that single set of expectations. The Government notes that QAs are already made available to the relevant O & S Committee prior to publication and that their comments must be included in the Quality Account. The Government states that the Department of Health will carry out further work to standardise QAs to increase their impact and reduce burdens.
- 24 From April 2013 QAs will include comparable data from a set of quality indicators linked to the NHS Outcomes Framework including the summary hospital level mortality indicator, infection rates and reported levels of patient safety incidents.
- 25 Over the coming months and year the Government plans to consider the recommendations further and set out its intentions. It has stated that 'the Department of Health will be consulting on many of the measures set out to ensure that in their detailed design and implementation, they continue to reflect the spirit of the Inquiry, putting patients first and foremost'.
- 26 It also expects all NHS hospitals to set out how they intend to respond to the report's conclusions before the end of 2013. It will publish a document in the autumn drawing this together into a system-wide update on progress and next steps, and will report annually on its progress and where it needs to take further action.

Wiltshire response to the Francis Report and key recommendations

- 27 If similar problems identified in the report were happening in Wiltshire (and the report indicates that this should not be regarded as a one-off event that could not be repeated elsewhere in the NHS), there would be a reasonable expectation that the Council would be aware and take strong early action. Therefore the Health Select Committee will want to ensure that it operates as effectively as possible and, to this end, there may be areas for development from the comments and recommendations in the Francis Report that it wishes to consider.
- 28 Responsibility in respect of O & S was confused in Staffordshire due to the involvement of both the County Council and the Borough Council. Wiltshire Council, being a unitary authority, is clear about its responsibility for scrutinising providers through its Health Select Committee (the Committee).
- 29 The Committee believes that good relationships lead to better communication. To that end it has agreed that the chairman and vice chairman should meet with all its key partners, and senior officers within the Council, to discuss matters of interest on a regular basis. The Committee seeks to be constructive and supportive but will not lose sight of its function to challenge when necessary.
- 30 The health and social care arena is complex and many bodies have various responsibilities for ensuring quality of services and good outcomes for

patients, with patient safety being paramount. The Committee wishes to engage fully with the appropriate bodies to ensure that no concerns are missed but also to avoid duplication of effort and wasted resources.

- 31 The Committee is not a complaints handling body, nor does it investigate issues on behalf of individuals. However, where the issues raised indicate that there may be broader problems, the Committee is keen to investigate. This is evidenced by its recent rapid scrutiny exercise into continence services, the findings of which have prompted a more intensive review through a task and finish group.
- 32 The Committee meetings routinely provide space on their agendas for members of the public to raise questions, although questions are rarely forthcoming. Bodies such as Healthwatch Wiltshire will have a key role in engaging fully with the residents of Wiltshire, and the Committee will not want to duplicate its work, rather to complement it. However, the Committee may wish to consider how it might raise its public profile and promote its work to encourage members of the public to attend its meetings and take advantage of the opportunity to ask questions.
- 33 In response to recommendation 43 - *Those charged with oversight and regulatory roles in healthcare should monitor media reports about the organisations for which they have responsibility.*
- 34 Councillors and officers currently review media reports informally to keep abreast of matters of personal and public interest. The Committee may wish officers to liaise with the communications team to understand how they can work with the scrutiny team to undertake a more formal role in monitoring local media reports about relevant organisations, and report to the Committee any matters which may be of interest or concern to it.
- 35 In response to 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.*
- 36 As it is the aim of the Committee to work constructively with all its partners, it would welcome any approach from the Care Quality Commission (CQC) to work more closely with it and share relevant information.
- 37 Over recent months the Committee has begun to establish a good relationship with the CQC and is beginning to see the benefits of that relationship. The CQC has recently started to provide information to the Committee on the latest inspections undertaken by the CQC. Discussions are currently underway with the CQC on how such information can be refined to provide valuable but concise information to the Committee on inspections carried out in respect of providers within Wiltshire and providers who serve Wiltshire residents.
- 38 In response to 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.*

- 39 Every NHS organisation, Wiltshire Council social care and independent care and health providers all have their own complaints procedures to enable them to respond to service users who are unhappy with the service they have received. Ideally, a complaint is resolved satisfactorily at an early stage, and the organisation concerned is able to learn and improve its service as a result of the complaint; unfortunately, as the report has highlighted, this is not always the case.
- 40 The Committee is able to consider information from a wide range of sources to inform its work and it is acknowledged that complaints data can provide important early warning signs that services may be deteriorating. Individual complaints may not indicate a problem but, taken together, a number of complaints about a particular service area could indicate a more serious problem.
- 41 However, the quantity of data available is potentially very large, it may be of variable quality and may not be in a format which allows easy identification of potential problems. Therefore work would need to be undertaken with those holding complaints data to establish how to access it and make best use of it, while avoiding unproductive work and considering patient confidentiality.
- 42 In response to recommendation 147 - *Guidance should be given to promote the co-ordination and co-operation between local Healthwatch, Health and Well-Being Boards and local government scrutiny committees.*
- 43 Guidance on this topic is now available in the form of a document published by the Centre for Public Scrutiny. The guide explains the independent, but complementary, roles and responsibilities of O & S committees, local Healthwatch, and health and well-being boards. It provides a basis for discussions about how existing and new bodies will work together and how they can build on local agreements. The document can be accessed at: <http://cfps.org.uk/publications?item=7195>
- 44 In response to recommendation 149 - *Scrutiny Committees should be provided with appropriate support to enable them to carry out their scrutiny role including accessible guidance and benchmarks.*
- 45 Each scrutiny committee has dedicated support from the Wiltshire Council overview and scrutiny team. In addition, training for councillors in a range of key O & S skills, including questioning and listening, is currently being planned, with further training being planned in terms of subject awareness within the individual O & S committees. Internal briefing notes are provided to councillors to keep them informed of developments within social care and public health in Wiltshire, and public health are able to provide statistics and technical data. In addition, the policy team regularly produces an electronic briefing which summarises key national developments.
- 46 Health Select Committee meetings are well attended by senior managers from health agencies, who contribute regularly to debates. The Committee plans to work as effectively and efficiently as possible with its partners to optimise their expertise and input.

- 47 The Centre for Public Scrutiny produces a wide range of publications to assist those involved in scrutiny. Since 2004 it has been funded by the Department of Health to provide a comprehensive range of resources to support health, care and wellbeing scrutiny.
- 48 Should the Committee feel it needs support with a particularly complex issue, it is able to invite expert witnesses to attend its meetings. It may also undertake site visits to help it in its understanding of a subject. Much of the work of the Committee is undertaken by task and finish groups. These groups routinely invite a wide range of witnesses to appear before them to enable them to fully understand the topic under review.
- 49 It is welcomed that, from April 2013, quality accounts will include comparable data as this will allow the Committee to understand better whether a particular number represents good or bad performance.
- 50 In response to 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 inspection reports without comment or suggestions for action.*
- 51 Currently, O & S committees have no power to inspect providers, whereas local Healthwatch have the power to 'enter and view'. As a key partner, the Committee will want to work actively with Healthwatch Wiltshire on the development of work programmes and areas of interest, and follow up inspection reports when necessary. The Committee is pleased to include a representative from Healthwatch Wiltshire in its membership.
- 52 In response to 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.*
- 53 Most NHS healthcare providers, including the independent and charitable sector, are required to produce a QA. It is an annual statement of their performance on quality and is aimed at a local, public audience. The quality of the services they provide is measured by looking at patient safety, the effectiveness of treatments that patients receive and patient feedback about the care provided.
- 54 Providers have a legal duty to send their QA to the O & S committee in the local area in which the provider has its registered office, inviting comments on the report from the O & S committee prior to publication. Any comments made by the O & S committees must be included in the QA.

- 55 Providers must send their QA to the appropriate O & S committee by 30 April each year. This gives them 30 days following the end of the financial year to finalise their QA. Due to the timing of the Wiltshire Council elections, the Committee decided that it was not possible to comment on the QAs it received this year.
- 56 Currently the Committee is asked to comment on the QAs for the Royal United Hospital, the Great Western Hospital, Salisbury Hospital, the Avon and Wiltshire Mental Health Partnership, the Royal National Hospital for Rheumatic Diseases and the South Western Ambulance Foundation Trust.
- 57 The Committee has only 30 days within which to comment on each of the draft QAs and, even without elections, it is difficult to comment in a meaningful way on the information provided. The Committee may wish to consider a different approach to ensure that it is well enough informed to be able to comment confidently when the QAs are presented, particularly on those of the acute trusts. Department of Health guidance indicates that 'stakeholder engagement in the development of the Quality Account should be a year-long process – ideally starting at the beginning of the reporting year'.
- 58 One proposal could be for a small group of councillors (2-4) to 'link' with each acute trust; for convenience, the one geographically closest to them. At the trust's invitation, the group could visit on several occasions throughout the year. This would provide the trust with the opportunity to demonstrate the work it was doing towards its QA on patient experience, safety and clinical effectiveness and allow the Committee to observe the work of the trust first hand and to gather intelligence to inform its comments on each QA. However the Committee chooses to engage with the trusts, discussions would need to be had with them to ensure their support for such an approach.
- 59 It is acknowledged that a task group which evaluated contributing to QAs in 2010-11, did not feel that the exercise added value. However QAs have become more consistent since they were introduced and, as has already been mentioned, will include comparable data this year. In addition, it is clear from their recent announcements that the Government sees a long term future for Quality Accounts.
- 60 It is also clear that, not only is there a desire on the part of the Committee to work more closely with its partners, there is an expectation that it will.

Conclusion

- 61 The recommendations contained in the Francis Report are far reaching and although the Government has accepted most of them, it will take some considerable time for it to deliver on its commitments. The recommendations that relate directly to O & S are more manageable and the Committee is well placed to address them.
- 62 The Committee has stated previously its preferred way of working – engaging early with its partners, maintaining open and honest communications, being constructive and supportive but being prepared to question and challenge. The Committee will be particularly keen to develop its relationship with those

bodies that came into being in April 2013, specifically Healthwatch Wiltshire and the Wiltshire Health and Wellbeing Board.

- 63 As has already been stated, the chairman and vice-chairman will be meeting with all the Committee's key partners and officers. They will discuss the Francis Report at each meeting to ensure that no opportunities are lost to work together to strengthen the effectiveness of O & S as, whilst the Committee has responsibility to scrutinise health services, it is clear that it will be much more effective when all agencies work together.

Proposals

64 After consideration of the main report the Committee may wish to consider the following proposals with a view to addressing the recommendations in the Francis Report:

- a) To investigate opportunities to promote the Committee and its work to encourage more public participation;
- b) In consultation with the communications team, to require officers to monitor local media reports and report any matters of interest to the Committee;
- c) To require officers to investigate the range of health and social care complaints data available and liaise with Healthwatch Wiltshire and the CQC to agree on how this can be made available to the Committee to best effect;
- d) To liaise with Healthwatch Wiltshire and the Wiltshire Health and Wellbeing Board to agree roles and responsibilities and develop supportive arrangements to work towards similar goals.
- e) To investigate with the acute trusts the possibility of establishing 'link' groups with the Committee to inform the Committee's responses to annual Quality Accounts.

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