

**Report for:** Overview and Scrutiny Committee – 21 December 2020

**Title:** Whittington Health – Process for Consideration of Proposed Estates Improvements for Community Health Services in Haringey

**Report authorised by:** Ayshe Simsek, Acting Democratic Services and Scrutiny Manager

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**Ward(s) affected:** N/A

**Report for Key/  
Non-Key Decision:** N/A

**1. Describe the issue under consideration**

- 1.1 This report outlines the process and procedures, as outlined in the Health Scrutiny guidance, for considering the proposed changes to NHS health services provided by Whittington Health. In addition, it proposes the setting up of a time limited task and finish panel to undertake detailed consideration of the substance of the proposals and develop a response on behalf of the Committee.

**2. Cabinet Member Introduction**

N/A

**3. Recommendations**

- 3.1 That the process for considering proposed changes to local NHS services, as outlined in the Health Scrutiny guidelines, be noted; and
- 3.2 That a task and finish Panel of between 3 and 7 Members comprising Members of the Children and Adults Scrutiny Panels be established to consider the proposed changes to local NHS services by Whittington Health and to prepare a response for approval by the Committee.

**4. Reasons for decision**

- 4.1 The decision is required to ensure that the Committee is able to respond proportionately and effectively to the change proposals by Whittington Health

**5. Alternative options considered**

N/A

**6. Background information**

- 6.1 The Committee has been approached by Whittington Health regarding some proposed changes to the NHS services that they currently provide within Haringey. The main part of them involves transferring several services that are currently provided on the St Ann's Hospital site on St Ann's Road N15 to Tynemouth Road Health Centre N15. This will affect between 150 and 230 patients. The services in question are predominantly for children. There will be some knock-on effect on services for adults currently provided at Tynemouth Road that will be displaced by the transfer of services to children. Full details of the proposals are provided within the paper from Whittington Health that is elsewhere on the agenda.
- 6.2 There is a requirement that any proposed changes to NHS services are the subject to the involvement and engagement with patients and the public by NHS bodies, including health overview and scrutiny committees. The process for engagement with local authority health overview and scrutiny committees is outlined in the Department of Health Local Authority Health Scrutiny guidelines.
- 6.3 The key issue within this relating to the current proposals is the level of involvement and engagement that is proportionate and appropriate. Chapter Four of the Health Scrutiny guidelines covers the process for consideration of substantial proposals, where formal consultation is required. The legislation on which the guidelines are based does not define what constitutes "substantial" though and it is left as a matter to be determined between HOSCs and health commissioners.
- 6.4 When considering whether formal consultation is necessary, a number of factors have typically been considered:
- (a). Changes in the accessibility of services;
  - (b). Impact of the service on the wider community and other services, including economic impact, transport and regeneration;
  - (c). The number of patients affected. Changes may affect the whole population of a geographical area or a small group. If a change affects a small group of patients it may still be considered "substantial", especially if patients need to continue to access the service for many years;
  - (d). Methods of service delivery, e.g. moving a particular service into a community setting from an acute hospital setting.
- 6.5 Whether a proposal is likely to be contentious is also commonly a factor in deciding the level of involvement and engagement that is appropriate. The guidance suggests that HOSCs and NHS bodies may wish develop protocols or memoranda of understanding for deciding what constitutes a "substantial" development or variation. However, it would be difficult to develop a conclusive definition due to the large number of variables involved.
- 6.6 Where formal consultation is deemed to be appropriate, this is undertaken by NHS commissioners rather than providers. Timescales for the consultation must be provided by NHS commissioners to HOSCs when consultations take place. Cabinet Office guidelines previously suggested that consultations should last 12 weeks. They no longer specify a specific length but instead say that they should last for a proportionate amount of time.

- 6.7 Probably the most important characteristic of consultations for HOSCs is that they provide them with the power to refer a proposed substantial development or variation to the Secretary of State if:
- They are not satisfied with the adequacy of content of the consultation (*n.b. this refers to consultation with the HOSC*);
  - They are not satisfied that sufficient time has been allowed for consultation.
  - They consider that the proposal would not be in the interests of the health service in the area; and
  - They have not been consulted and are not satisfied that the reasons given for not carrying out consultation are adequate.
- 6.8 Where a referral is made to the Secretary of State, it is normally referred by him/her to a body called the Independent Reconfiguration Panel (IRP) who consider the issue in detail and report back with recommendations.
- 6.9 Should a HOSC consider that a proposal is not substantial and therefore does not require formal consultation, it does not mean that there will be no opportunity to comment on proposals. NHS bodies still have a general duty to involve and engage with the local community in the development of local health services, including HOSCs. The key difference between this and the duty to consult is that HOSCs only have the power of referral when consultations take place.
- 6.10 Health issues come within the terms of reference of the Adults and Health Scrutiny Panel. However, most of the services that are subject to changes are for children. It was originally proposed that the proposals would be jointly considered by both the Adults and Health and the Children and Young People's Panels. However, the resulting joint body, including co-opted Members, would have a combined membership of 19 which would be unwieldy. It is therefore proposed that a special ad hoc time-limited Panel be instead set up to consider the proposals and develop a response on behalf of the Committee.
- 6.11 The Committee may also wish to consider including up to three non-voting co-opted Members onto the Panel. These could be individuals or representatives from organisations with a particular interest or expertise in the issues being considered. Although the statutory education co-optees on scrutiny are able to vote, this is only on education issues and the current Whittington Health proposals would not fall into this category. They may nevertheless be co-opted on a non-voting basis if the Committee wishes.
- 6.12 In considering a response to the proposals, it is not the responsibility of HOSCs to undertake the engagement, involvement or consultation on behalf of NHS bodies. NHS bodies are expected to do this separately. However, the Panel set up by the Committee will need to receive evidence from a range of sources in order that it is able to develop an informed and balanced response to the proposals. It is suggested that, amongst others, the following be invited to provide evidence:
- Key stakeholders, including partners; and
  - Representatives of patients and the public, such as Haringey Healthwatch.

- 6.13 Provision will also need to be made for the results of any engagement or consultation undertaken by the relevant NHS bodies to be fed into the Panel's deliberations so these can be considered.

## **7. Contribution to strategic outcomes**

- 7.1 This issue is strongly linked to the follow outcomes under the People priority:
- Best start in life: the first few years of every child's life will give them the long-term foundations to thrive;
  - Happy childhood: all children across the borough will be happy and healthy as they grow up, feeling safe and secure in their family, networks and communities; and
  - All adults are able to live healthy and fulfilling lives, with dignity, staying active and connected in their communities.

## **8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

### **Finance**

- 8.1 There are no financial implications arising directly from this report however, following scrutiny of the proposals by the Panel meeting on 21 December, their recommendations may highlight financial implications for the Council, which would have to be considered and addressed at that point.

### **Procurement**

N/A

### **Legal[Name and title of Officer completing these comments]**

- 8.2 The Committee is responsible for the review and scrutiny of health services related matters within the borough. The Committee may appoint one or more sub-committees to discharge any of its functions.
- 8.3 Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 provides that where the responsible person (i.e. NHS body) has under consideration any proposal for a substantial development of the health service in the area of a local authority, or for a substantial variation in the provision of such service, the responsible person must a) consult the authority; b) when consulting, provide the authority with - i) the proposed date by which it intends to make a decision as to whether to proceed with the proposal; and ii) the date by which it requires the authority to provide any comments; c) inform the authority of any change to the dates provided; and d) publish those dates, including any change to those dates.
- 8.4 The duty to consult do not apply to any proposals on which responsible person is satisfied that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. If so, it must notify the authority immediately of the decision taken and the reason why no consultation has taken place.

## **Equality**

- 8.5 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
- Tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
  - Advance equality of opportunity between people who share those protected characteristics and people who do not;
  - Foster good relations between people who share those characteristics and people who do not.
- 8.6 The Committee should ensure that it addresses these duties by considering them within this piece of work. This should include considering and clearly stating;
- How the issue impacts on different groups within the community, particularly those that share the nine protected characteristics;
  - Whether the impact on particular groups is fair and proportionate;
  - Whether there is equality of access to services and fair representation of all groups within Haringey;
  - Whether any positive opportunities to advance equality of opportunity and/or good relations between people, are being realised.
- 8.7 The Committee should ensure equalities comments are based on evidence. Wherever possible this should include demographic and service level data and evidence of residents/service users views gathered through consultation.

## **9. Use of Appendices**

Appendix A: Local Authority Health Scrutiny – Department of Health

## **10. Local Government (Access to Information) Act 1985**