



Haringey Council

Agenda item:

[No 1]

Overview and Scrutiny Committee

On 22 October: 2017

Report Title: **Barnet, Enfield and Haringey Mental Health Trust/The North Middlesex University Hospital – Public Consultation on Applications for Foundation Status – Response by Overview and Scrutiny Committee**

Forward Plan reference number (if applicable): N/A

Report of: Chair of Overview and Scrutiny Committee

Wards(s) affected: **All**

Report for: **N/A**

1. Purpose

1.1 To agree a process for considering a response to the public consultations being undertaken by the Barnet, Enfield and Haringey Mental Health Trust and the North Middlesex University Hospital on their applications for foundation status.

2. Introduction by Cabinet Member (if necessary)

2.1 N/A

3. Recommendations

3.1 That a scrutiny review panel be set up to consider the proposed applications and recommend comments to be made on behalf of the Overview and Scrutiny Committee.

3.2 That the scope and terms of reference for the review, as outlined in the report, be approved.

Contact Officer: **Rob Mack, Principal Scrutiny Support Officer, 020 8489 2921**
rob.mack@haringey.gov.uk

4. Local Government (Access to Information) Act 1985

4.1 Background Papers:

Centre for Public Scrutiny (CfPS) briefing paper for overview and scrutiny committees on NHS foundation trusts.

These can be obtained from Robert Mack – Principal Scrutiny Support Officer on 020 8489 2921, 7th. Floor, River Park House, 225. High Road, N22 8LE

5. Report

- 5.1 Both Barnet, Enfield and Haringey Mental Health Trust and the North Middlesex University Hospital have been given approval by the Department of Health to pursue an application for foundation status. They will both be part of Wave 8 of applications by NHS trust. The consultation on their proposals will run for 13 weeks from 17 October to 16 January. Overview and Scrutiny Committee will be formally to comment on both these proposals.
- 5.2 NHS foundation trust hospitals are a new type of NHS organisation that are intended to be accountable to their local community rather than to central government. The aim is to make them more responsive to the needs and wishes of local people. However, they remain part of the NHS and are required to provide healthcare services that are consistent with NHS standards and principles.
- 5.3 The main advantage to NHS trusts in obtaining foundation status is that they can have greater financial freedom. It enables them to seek new sources of income, retain any surplus and decide, in partnership with the members' council, how best to spend their money to meet local needs.
- 5.4 NHS foundation trusts are governed by a members council that is elected by its members. Patients, the public, staff and local organisations are all able to become members. The members' council works with the hospital's board of directors to agree its strategic direction. There are three specific tiers of governance:
 - A membership that is made up of patients, staff local people and partner organisations, such as Primary Care Trusts (PCTs), GP practices, local authorities and voluntary organisations
 - A members' council of about 30 members which includes individuals elected from the membership and people appointed from partner organisations. This will include four members of staff
 - A board of directors made up non-executive and executive directors, the chairman and chief executive
- 5.5 Proposals to apply for foundation status cannot in themselves be regarded as 'substantial variations' to services and there is therefore no need for statutory consultation under Section 7 of the Health and Social Care Act 2001. However, there is a general duty on NHS trusts have to involve patients and the public in decisions about all changes under Section 11 of the Act and it is under this duty that consultation on this issue will be taking place. The specific purpose of the consultation, as outlined in the guidance to NHS trusts on applications for foundation status, is to obtain views from patients and the public on the overall strategy and governance arrangements.

- 5.6 Should the trust gain foundation status, there will still be a need for them to consult with Overview and Scrutiny Committee on any future “substantial variations” although the process for doing this has some differences. In particular, there will no longer be a right to refer contested proposals to the Secretary of State.
- 5.7 It is proposed that the terms of reference for the review be as follows:
- “To consider and comment as appropriate on the applications for foundation status by the Barnet, Enfield and Haringey Mental Health Trust and the North Middlesex Hospital NHS trusts and, in particular, their overall strategy and governance arrangements”
- 5.8 The Committee is currently in the process of responding to the application for Foundation Status by the Whittington Hospital. A small panel of Members of the Overview and Scrutiny Committee was set up to respond to the application as this allowed the proposals to be looked at in greater detail than would be possible at a meeting of the full committee. The Panel looked at the application in some detail and, as part of this process, was assisted by the provision of external expert advice.
- 5.9 The issues in relation to the applications from the Mental Health Trust and the North Middlesex Hospital are likely to be very similar and it is therefore suggested that the panel of Members appointed to consider both these applications be set up on the same basis as the panel that was appointed to consider the Whittington Hospital application i.e. drawn from Members of the Overview and Scrutiny Committee.
- 5.10 It is felt that the Panel will need to meet twice:
- One meeting each to receive the proposals from both of the trusts
 - A final meeting to consider appropriate responses on behalf of the Overview and Scrutiny Committee.
- 5.11 Key issues for the Panel will be as follows:
- Process: Has the consultation process to seek foundation status been adequate? Has the consultation process involved all sections of the local community? Has the process been open and clear? Have all views – negative as well as positive – been reflected in the application for foundation status? Will the trust act on and address any concerns raised in the consultation process?
 - Accountability: To what extent will foundation status increase democratic accountability and community ownership of health services? Will local people have more say in local health services? How can the trust ensure that the membership and management board reflect the diversity of the local community? Will the membership and board of governors have any influence on services?
 - Partnerships and the local health economy: Will the creation of the trust lead to a two-tier local health economy? Will the trust have a competitive advantage over other NHS trusts? What are the risks and benefits to partnership working and the stability of the local health economy? Is the

“duty to cooperate” effective? What will be the impact on the local health economy? How can it be ensured that the trust continues to be fully committed to local health improvement partnerships?

- Impact on local people: How will local people benefit? Will there be any negative impacts for local people? What impact will foundation status have on local health inequalities in health – especially unequal access to health services? Will foundation status improve health services for local people?

5.12 It is also recommended that the panel work closely with relevant PPI Forums in order to obtain a patient perspective on what the proposals might entail for local people. In addition, evidence should be sought from Haringey Teaching Primary Care Trust, who are a key stakeholder due to their strategic role in commissioning.

6. Equalities Implications

The review panel may want to consider whether the respective plans take into account the diverse nature of the local population and will not exacerbate

7. Consultation

Members may also wish, as part of their consideration, to look at both trust’s consultation plan on their application as well as their proposals for ongoing patient and public involvement should their application be successful.

8. Comments of the Head of Legal Services

A Scrutiny Review Panel must be appointed in accordance with the political balance rules. The Scrutiny Procedure Rules are set out in Part 4 section G of the Council’s Constitution. The other legal implications are contained in the body of the report.