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Meeting	Health Overview and Scrutiny Committee
Date	9 May 2013
<b>Subject</b>	<b>Francis Report – Issues for the Health Overview and Scrutiny Committee</b>
Report of Summary	Overview and Scrutiny Office To consider issues and implications for Health Overview and Scrutiny Committee arising from the findings of the Mid Staffordshire NHS Foundation Trust Public Inquiry (known as the Francis Inquiry) into care at Stafford Hospital between 2005 and 2008

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Officer Contributors	Andrew Charlwood, Overview & Scrutiny Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	N/A
Reason for urgency / exemption from call-in	N/A
Function of	Committee
Enclosures	Appendix A – Francis Report: Recommendations and Local Implications
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## **1. RECOMMENDATIONS**

- 1.1 The Committee are asked to 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 Barnet are required to ensure that it operates as effectively as possible.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Health Overview and Scrutiny Committee, 12 February 2013, Health Overview and Scrutiny Committee Forward Work Programme – the Committee agreed that they should receive a briefing on the findings and recommendations of the Francis Report at the meeting on 9 May 2013.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The Overview and Scrutiny Committees must ensure that the work of Scrutiny is reflective of the Council's priorities.
- 3.2 The three priority outcomes set out in the 2013 – 2016 Corporate Plan are: –
- Promote responsible growth, development and success across the borough;
  - Support families and individuals that need it – promoting independence, learning and well-being; and
  - Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.
- 3.3 The work of the Barnet Health Overview and Scrutiny Committee supports the delivery of the following outcomes identified in the Corporate Plan:
- To sustain a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health; and
  - To promote a healthy, active, independent and informed over 55 population in the borough to encourage and support our residents to age well.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The Barnet Health Overview and Scrutiny Committee needs to ensure the recommendations from the Francis Inquiry are fully considered and appropriate steps are taken to address any recommendations relating to the operation of health scrutiny to ensure that the committee can effectively discharge their statutory responsibilities in relation to the scrutiny of health care services in Barnet.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 In addition to the Terms of Reference of the Committee, and in so far as relating to matters within its remit, the role of the Committee is to perform the Overview and Scrutiny role in relation to:
- The Council's leadership role in relation to diversity and inclusiveness; and
  - The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.
- 5.2 The Council is required to give due regard to its public sector equality duties as set out in the Equality Act 2010 and, as public bodies, health partners are also subject to equalities legislation; consideration of equalities issues should therefore form part of their reports.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 Following consideration of the report, the Committee may determine that specific actions are required to respond to the recommendations detailed in section 9.6 of the report. If this is the case, a detailed financial appraisal of the cost implications will be undertaken and reported to a future meeting of the Committee.

## **7. LEGAL ISSUES**

- 7.1 Section 244 of the National Health Service Act 2006 and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218; Part 4 Health Scrutiny by Local Authorities provides for the establishment of Health Overview and Scrutiny Committees by local authorities.
- 7.2 Health and Social Care Act 2012, Section 12 – introduces section 2B to the NHS Act 2006 which imposes a new target duty on the local authority to take such steps as it considers appropriate for improving the health of people in its area.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Council Constitution, Overview and Scrutiny Procedure Rules – sets out the terms of reference of the Health Overview and Scrutiny Committee which includes:
- i) To perform the overview and scrutiny role in relation to health issues which impact upon the residents of the London Borough of Barnet and the functions services and activities of the National Health Service (NHS) and NHS bodies located within the London Borough of Barnet and in other areas.

- ii) To make reports and recommendations to the Executive, Health and Well-Being Board and/or other relevant authorities on health issues which affect or may affect the borough and its residents.
- iii) To receive, consider and respond to reports and consultations from the NHS Commissioning Board, Barnet Clinical Commissioning Group, Barnet Health and Well-Being Board and/or other health bodies.

## **9. BACKGROUND INFORMATION**

- 9.1 The Mid Staffordshire NHS Foundation Trust Public Inquiry (known as the Francis Inquiry) examined the appalling care and serious failings at Stafford Hospital between 2005 and 2008. The number of excess deaths between 2005 and 2008 was estimated at 492 people. Examples of poor care included patients being left in soiled bedclothes for lengthy periods, lack of assistance with eating and drinking, filthy wards and toilets, lack of privacy and dignity. The report describes the failings as a 'disaster' and 'one of the worst examples of bad quality service delivery imaginable'. The Inquiry looked at the hospital and the roles of the main organisations with an oversight role including the Department of Health, the Strategic Health Authority, the Primary Care Trust, national regulators, other national organisations, local patient and public involvement and health scrutiny. The Francis Inquiry report made 290 detailed recommendations.
- 9.2 The report attributes accountability for the appalling care at Stafford Hospital to the Trust Board, but also points to a systemic failure by a range of national and local organisations to respond to concerns. This includes the two local authorities who have both publicly acknowledged that they could have done more.
- 9.3 The primary means for local authorities to hold health care providers accountable is through the use of the health scrutiny powers available to them. Given that the Council holds these powers, there would be a reasonable expectation that if similar problems identified in Stafford were happening in Barnet (and the report indicates that this should not be regarded as a one-off event that could not be repeated elsewhere in the NHS), the Council would be aware and take strong early action. Consequently, the Council needs to ensure that its health scrutiny function operates as effectively as possible and to this end there is potential to learn lessons from the comments and recommendations relating to health scrutiny made in the Francis Inquiry report.
- 9.4 Chapter 6 of the Francis Inquiry 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 and the report goes into some detail in its observations and comments concluding that "the local authority scrutiny committees did not detect or appreciate the significance of any signs suggesting serious deficiencies at the Trust".
- 9.5 In its commentary on the role and operation of health scrutiny in Staffordshire, the report identified a number of issues:
  - 9.5.1 Lack of detail in notes of some scrutiny meetings – the report commented "...it is unfair to councillors and obstructive to public involvement and engagement

for there to be no record of the contributions made by the committee's members whether by way of observations or questions, and of responses given."

- 9.5.2 Over-dependency on information from the provider rather than other sources, particularly patients and the public, and the need to be more proactive in seeking information. Councillors from Stafford Borough Council's Health Scrutiny Committee accepted the Committee "...did not get underneath what the representatives from the hospital were telling it... Chief Executives usually talk up an organisation and put on a positive gloss. If the same happened again, then I would look deeper and ask questions to the people below...e.g. nurses, doctors and consultants."
- 9.5.3 Questions about expertise of some health scrutiny members – for example the report commented that neither the Committee nor the Council had the expertise to mount an effective challenge to the Trust's cost cutting proposals, and that there are occasions when lay people need expert assistance in interpreting information. Similarly, scrutiny of the Trust's Foundation Trust application was unchallenging with councillors accepting that the process was meaningless.
- 9.5.4 Scrutiny can be better conducted at arms-length rather than as a 'critical friend' – the report suggests that there is a tendency to be deferential towards local trusts and this can make challenging the quality of local health services more difficult.
- 9.5.5 Lack of resources, particularly in small borough committees.
- 9.5.6 Need for clarity about the role of district and county health scrutiny committees

### **Health Scrutiny Recommendations**

- 9.6 The report makes the following recommendations relating directly to overview and scrutiny:
  - 9.6.1 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.' (Rec 47)
  - 9.6.2 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 of patient confidentiality. (Rec 119)
  - 9.6.3 Guidance should be given to promote the coordination and cooperation between Local HealthWatch, Health and Wellbeing Boards, and local government scrutiny committees. (Rec 147)
  - 9.6.4 Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks. (Rec 149)
  - 9.6.5 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 suggestions for action. (Rec 150)

- 9.6.6 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 and 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 committees, and Local HealthWatch. (Rec 246)
- 9.7 The government published their response to the report and recommendations on 28 March 2013 (see 10.2 below).
- 9.8 While some of the recommendations made in the Francis Report (as set out in section 9.6) would require legislative changes (such as giving scrutiny inspection powers), other issues highlighted in the report can inform and improve the way in health scrutiny operates in Barnet immediately. Detailed recommendations and possible responses have been set out in Appendix A for the committee to consider.
- 9.9 The report is also critical of the local Patient and Public Involvement Forum and its successor Local Involvement Network (LINK), and raises concerns about Local HealthWatch in the future. Given that the council is responsible for appointing and funding a host for Local HealthWatch, the Committee may wish to consider its role in ensuring Local HealthWatch is effective in voicing the concerns of local people. Further detail is set out in Appendix A.
- 9.10 The Health and Well-Being Board considered a report at their meeting on 25 April 2013 called *Quality and Safety: A Response to Francis*. The report provided the Health and Well-Being Board with a summary of the main issues raised from the public inquiry into the events at Mid Staffordshire Hospital carried out by Robert Francis QC. It also included the main recommendations from that report which have significance for the Barnet Clinical Commissioning Group (CCG), sets out Barnet CCG's progress to assess its current priorities and it advises of next steps.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry February 2013:  
<http://www.midstaffspublicinquiry.com/report>
- 10.2 Government Initial Response to the Mid Staffs Report: Patients First and Foremost, March 2013:  
<https://www.gov.uk/government/publications/government-initial-response-to-the-mid-staffs-report>

10.3 Health and Well-Being Board, 25 April 2013, Quality and Safety – A Response to Francis:

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=177&MId=6571>

<b>Cleared by Finance (Officer's initials)</b>	<b>MC/JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>LC</b>