

Statutory Instruments
2013 No. 218
National Health Service, England
Social Care, England
Public Health, EnglandThe Local Authority (Public Health, Health
and Wellbeing Boards and Health Scrutiny) Regulations 2013

Review and scrutiny

21.—(1) A local authority may review and scrutinise any matter relating to the planning, provision and operation of the health service(1) in its area.

(2) In carrying out the review and scrutiny of a particular matter, the local authority must—

(a) invite interested parties to comment on the matter; and

(b) take account of relevant information available to it and, in particular, relevant information provided to it by a Local Healthwatch organisation(2) or Local Healthwatch contractor (“a referrer”) when that referrer refers a matter falling within paragraph (1) to the authority.

(3) Where a matter falling within paragraph (1) is referred to the local authority by a referrer, the local authority must—

(a) acknowledge receipt of the referral within 20 working days beginning with the date on which the referral was made; and

(b) keep the referrer informed of any action taken in relation to the matter.

(4) Otherwise, the procedure of review and scrutiny is to be determined by the local authority.

(5) For the purposes of this regulation, a matter is referred by a referrer if it is referred in the carrying-on of activities specified in section 221(2) of the 2007 Act(3) (patient and public involvement in health and social care) under arrangements made under section 221(1) of that Act (health and social services: Local Healthwatch) or Local Healthwatch arrangements.

(6) In this regulation—

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007(4);

“Local Healthwatch arrangements” has the meaning given by section 222 of the 2007 Act(5) (arrangements under section 221(1): Local Healthwatch organisations);

“Local Healthwatch contractor” has the meaning given by section 223 of the 2007 Act(6) (prescribed provision to be included in arrangements under section 221(1));

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday (in England) under the Banking and Financial Dealings Act 1971(7).

(DRAFT) PROTOCOLS FOR OVERVIEW AND SCRUTINY OF HEALTH

1. How you might be involved in Overview and Scrutiny.

Overview and Scrutiny (O&S) bodies are made up of Elected Members (Councillors) who are not Members of the Cabinet, who keep an eye on the decision makers. The O&S process is not political – it is driven by the interests of the citizens of Bury. It cannot make decisions for the Council, but instead looks at policies, decisions and areas of work, and makes recommendations to the decision makers. It acts as a “critical friend” to the Council and its partners around the decision-making process, and uses informed debate and evidence to make its recommendations. In Bury we have an Overview and Scrutiny Committee and a dedicated Health Scrutiny Committee. The Health Scrutiny Committee carries out overview and scrutiny work in relation to all health services in Bury.

There are two key aspects to the role of O&S: -

Overview: Review policies and decisions before decisions are made. O&S Members are very keen to be involved in the process at an early stage and want to make a valuable difference.

Scrutiny: Monitor decisions and progress of policies after these have been implemented e.g. 6 months after. If a proactive role is undertaken e.g. more ‘Overview’ work, then there would be a lesser need to undertake ‘Scrutiny.’

O&S Members undertake their work according to the nature of the issue: -

- Formally constituted meetings which are in the public domain
- Informal Task and Finish Groups who report their findings and recommendations to the relevant formal body
- Workshops and stakeholder events who report findings to the relevant formal body
- Informal one off meetings who report findings to the relevant formal body

The public and representatives of various voluntary, community, faith, private and public organisations can be co-opted onto Task and Finish Groups and invited to workshops and stakeholder events to provide expert advice for O&S Members to consider.

Representatives of organisations may be invited to O&S Meetings as: -

Witnesses: Provide information at meetings and answer any questions O&S Members have. These could be both at formally constituted meetings which are in the public domain or at informal Task and Finish Group meetings.

Expert Advisers: Share expert knowledge with Health Scrutiny Committee Members at Task and Finish Groups – this may require attendance at each meeting. Deliver and facilitate discussions at workshops and stakeholder events which may be attended by the public, elected Members, representatives of voluntary, community, faith, private and public organisations.

2. Role of Overview and Scrutiny Councillors

- Holding decision takers to account (**being a critical friend**)
- Shaping and influencing policy (**setting priorities**)
- Making the right difference (**challenging performance**)
- Representing the public's view (**being the public voice**)

- Bringing in external expertise (**bringing balance to the debate**)
- Restoring public confidence in local democracy (**engaging the community**)

3. Key Health Organisations

The Health and Social Care Act has introduced the following changes from April 2013: -

- a) **Clinical Commissioning Group** – all GPs across the Borough are part of this group who are responsible for commissioning primary and secondary care.
- b) **Health and Wellbeing Board** – this is a formally constituted meeting of the Council where Members of this Board will have a strategic overview of Health across the Borough. They will be responsible in producing a Health and Wellbeing Strategy and Joint Strategic Needs Assessment for the Borough. Membership of this Board includes key representations of health and social care organisations, including an Independent Chair, GPs, from the CCG, Director of Adult Services, Director of Commissioning, Director of Public Health and representatives of the voluntary sector and Health Watch.
- c) **Public Health** – now part of the Council to work on improving health and wellbeing of the Borough by reducing the health inequalities. The focus of the work is on prevention at an early stage and the production of public health intelligence to help focus attention on key areas for improvement.
- d) **Health Watch** – Independent consumer champion of health and social care services

4. External Invitees

Health Scrutiny Committee Members will invite key representatives of the Clinical Commissioning Group, Health and Wellbeing Board, Public Health, Health Watch, health providers, key officers and Cabinet Members within

the Council to their meetings. You are invited to these meetings to provide useful and relevant expert advice to help the Committee Members undertake their work in an objective and focussed manner. You may be asked to attend a formal meeting to present your report, attend Task and Finish Group meetings as an expert adviser (this may require your attendance to all of these meetings), help to facilitate workshops and stakeholder events. Support officers of O&S will advise you accordingly at the time.

5. The Principles - Health Overview and Scrutiny

a) Providing Information to Overview and Scrutiny

As officers of your organisation, you will have been contacted on behalf of the Health Scrutiny Committee for specific information you have expertise on. The Democratic Services officers based within the Council will advise you of dates and should normally give you around 10 working days notice. You may be required to attend a meeting to present the information required and to answer any further questions the Committee Members have.

b) Attendance at O&S Meetings

Reasonable advance notice will be provided to you to attend an Health Scrutiny Committee meeting. The Democratic Services officers will contact you and advise why you have been invited to a meeting. Up to 3 weeks notice will be given to you but if less time is available, the Committee will accept that written information may not be available in advance of the meeting but will accept that written information will be tabled at the meeting. However, you will need to ensure that the right individuals attend the meeting to answer questions accurately and in an open manner.

c) Openness and Transparency

Formal Health Scrutiny Committee meetings are open to the public and information provided to the Committee are also public documents (available on www.bury.gov.uk). Where information provided should not be in the public domain, this must be made clear when forwarding the information to the support officers. There is provision for meetings or parts of the meeting to be held privately, which the support officers can provide advice on. Papers for formal O&S meetings are sent out 5 working days prior to the actual meeting taking place.

Informal meetings also take place where these do not take place in the public domain, but again it is best practice to send out papers 5 working days prior to the actual meeting taking place.

d) Recommendations

Any recommendations that the Health Scrutiny Committee Members make has to go through the Council's decision making process for these to be considered. Health Scrutiny Committee Members can make recommendations to decision makers at their formal meetings based on information received and discussion that has taken place at their meeting. The recommendations would then go to the relevant decision maker such as Cabinet, Clinical Commissioning Group, Director of Public Health, Health and Wellbeing Board and Health Watch for consideration. A formal

response will normally be expected within 28 calendar days. If a response is not provided within this timescale, the relevant body will liaise with the Chair of the Health Scrutiny Committee to agree a date as to when a response can be provided.

As stated above, Health Scrutiny Members can undertake their work in different formats outside of the formal meetings, particularly setting up small Task and Finish Groups to undertake in-depth investigations with a specific focus.

SUB GROUPS/TASK AND FINISH GROUPS

- 6.** Protocols – working with Scrutiny sub groups/task and finish groups (applies to all key health organisations)

When undertaking sub group/task and finish work the following will apply: -

- 6.1** Scrutiny will consult with the relevant health bodies and agree the terms of reference
- 6.2** Consideration will be given to appoint a representative of the relevant health body as a co-optee or an expert advisor
- 6.3** Prior to recommendations being finalised, an informal consultation will be carried out with the health body and their response on the draft report will be inserted in the final report
- 6.4** Once a report is published, a copy of the report will be sent to each of the named officers at the health bodies who will be responsible for formally responding to the recommendations.
- 6.5** Responses will be provided within 28 calendar days (or as soon as possible thereafter).
- 6.6** Responses can either be co-ordinated through the relevant health body, or one of the partners, or organisations can respond individually.
- 6.7** Where recommendations are accepted, the support officers of Scrutiny will liaise with the support officers of the relevant of health bodies to monitor the progress in implementing the recommendation and to determine the impact this has had in service areas.
- 6.8** If any of the recommendations are not accepted, the Chair of the relevant body will attend the next meeting of Committee to provide reasons why the recommendations were rejected. If the Chair cannot attend, then a written response is provided.

Joint Working Protocol

7. CLINICAL COMMISSIONING GROUP

7.1 Sharing of Work Programmes

An annual informal meeting will take place between the Chair of the Clinical Commissioning Group (CCG) and the Chair of the Health Scrutiny Committee at the beginning of each municipal year to discuss both work programmes for the forthcoming year.

At this meeting, discussions should take place on any proposals for change to be introduced by the CCG and the dates to when information can be shared with the Health Scrutiny Committee prior to public consultations be agreed. Equally, the Chair of the Health Scrutiny Committee agrees when regular quarterly updates of the CCG are provided to the Committee to review.

7.2 Commissioning Plan

Health Scrutiny Committee Members will receive quarterly updates on the Commissioning Plan and how this links in with the priorities of the Council, Health and Wellbeing Board, Public Health, Housing, District Partnerships and other key partners.

The update should also include how much funding is allocated to services commissioned, who the providers of commissioned services are, what process is followed in selecting a provider and which provider is not performing as set out in the contract, how the plan links in with the Health and Wellbeing Strategy and the Joint Strategic Needs Assessment.

Health Scrutiny Committee Members may also ask to review other information which the Democratic Services officers would provide advice accordingly at the time.

7.3 Declaration of Interest

All GPs will be required to sign a declaration of interest document which lists the organisations they have a vested interest in. This is an approach undertaken by elected Members of the Council who declare their interests at meetings if they are partaking in discussions which will ultimately lead to decisions being made of organisations they have vested interests in. This information should be made public to ensure an open and transparent process.

Joint Working Protocol

8. PUBLIC HEALTH

8.1 Informal Briefings

The Director of Public Health will meet regularly with the Committee to provide information and intelligence to enable effective scrutiny of all health bodies. I

It should also be agreed which relevant training sessions need to be delivered for Members to undertake effective overview and scrutiny of health bodies.

8.2 Sharing of Work Programmes

The Director of Public Health will meet with the Chair of the Health Scrutiny Committee at the beginning of the municipal year to share both work programmes for the forthcoming year.

Task and Finish Groups should be scheduled in the work programme on major campaigns and public health issues/priorities.

8.3 Public Health Plan

Information will be shared with Committee in relation to the services that are commissioned by the Public Health Team and to determine the outcomes and impact of these commissioned services.

Joint Working Protocol

9. HEALTH AND WELLBEING BOARD

9.1 Sharing of Work Programmes

The Chair of the Health and Wellbeing Board will meet with the Chair of the Committee at the beginning of the municipal year to share both work programme for the forthcoming year.

9.2 Joint Strategic Needs Assessment (JSNA)

The Health and Wellbeing Board will share the previous JSNA with the Committee highlighting the outcomes achieved, how these are measured and the delivery of the 3/5 year plan.

The Health Scrutiny Committee Members will have the opportunity to influence and shape the development of the forthcoming JSNA and that this process begins in September each year.

9.3 Health and Wellbeing Strategy

The Health Scrutiny Committee will be involved at an early stage in the development of the strategy and this should begin in September each year. The Health and Wellbeing Strategy will be monitored by the Committee every 6 months to determine whether outcomes have been achieved.

Joint Working Protocol

10. HEALTH WATCH

10.1 Sharing of Work Programmes

An annual meeting will take place between the Chair of the Health Watch and the Chair of the Health Scrutiny Committee at the beginning of each municipal year to discuss both work programmes for the forthcoming year. It should be determined where there are duplications of work, discussions should take place in agreeing where joint working on pieces of work could occur.

Continuous communication should take place throughout the municipal year as new issues come to light and joint working may be required.

10.2 Co-option

Health Scrutiny Committee will, when required co-opt Health Watch Members to appropriate Task and Finish Groups, workshops and events where their input is valuable. Health Watch Members may also be asked to undertake specific pieces of work.

10.3 Information Sharing

Health Watch will provide the Committee Members at their meeting, 6 monthly updates on work completed, progress made and the next steps.

11. WHISTLEBLOWING

The Health Scrutiny Committee will treat any information provided to it regarding wrongdoing as confidential and will pass this onto the relevant body for investigation.

See Bury Council's whistleblowing policy:-

<http://intranet.bury.gov.uk/NR/rdonlyres/FFA7DF88-BC85-4F54-B2E3-1BC03193F41D/0/AntiFraudStratagyDecember2011.doc>

12. VOLUNTARY, COMMUNITY AND FAITH ORGANISATIONS AND THE PUBLIC

It is important for Health Scrutiny Members to involve key organisations within the voluntary, community and faith sector to provide expert advice on health issues. They will be invited to meetings, workshops and stakeholder events or co-opted onto Task and Finish Groups. These organisations can provide a useful insight from their perspective as well as patients and carers views. Where appropriate, involving the public with specific interest in health will be invited to meetings to seek their views and opinions on issues.

13. INVOLVING LOCAL PEOPLE

Anyone can suggest a topic for O&S and the Health Scrutiny Committee Members to scrutinise. Visit the website <http://www.bury.gov.uk> or you could contact Democratic Services officers for further information in how you can request O&S and Health Scrutiny to look at an issue.

14. RESOLVING DISPUTES

If there are any concerns in the working relationships between the Health bodies and the Health Scrutiny Committee this will be addressed as soon as possible.

Only as a last resort, if there is a dispute regarding a failure of co-operation of the CCG, Public Health, Health and Wellbeing Board and Health Watch, the Chair of the Committee will write to the appropriate national body, outlining the concerns and asking for a formal response.

Equally, the relevant Health body may also wish to raise concerns about the work of the Health Scrutiny Committee and should write to the Chair of the Committee.

15. UPDATING THE PROTOCOL

The protocols will be reviewed annually between representatives of the Health Scrutiny Committee and various health bodies at its informal meeting at the beginning of the municipal year.