

HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

24 JUNE 2014

UPDATE ON REPORT OF THE MID STAFFORDSHIRE NHS FOUNDATION TRUST PUBLIC INQUIRY: IMPLICATIONS FOR MEDWAY COUNCIL

Report from: Dr Alison Barnett, Director of Public Health
Barbara Peacock, Director of Children and Adults Services

Summary

The public inquiry into the serious failings at Mid Staffordshire NHS Foundation Trust identified failures in the systems, which should identify and remedy non-compliance with acceptable standards of care. The Inquiry Chair, Robert Francis QC, made 290 wide ranging recommendations to ensure that patients are the first and foremost consideration of the system and everyone who works in it. The Committee previously received a report on the implications of the Francis Report for Medway Council and this report provides an update on how these have been addressed.

1. Budget and Policy Framework

- 1.1 There are cross-cutting issues arising from the Francis Inquiry. A report on the implications for Medway Council was considered by this Committee on 9 April 2013 because of its role in relation to scrutiny of health service and also because the Inquiry report makes several recommendations which may impact on the arrangements for local authority scrutiny of health in the future. The Committee requested an update on progress in implementing the recommendations of the Francis Report.

2. Background

- 2.1 The public inquiry was set up in June 2010 by the former Secretary of State, Andrew Lansley, to examine the role of commissioning, supervisory and regulatory bodies in the monitoring of Mid Staffordshire Foundation NHS Trust. The Inquiry builds on the work of an earlier independent inquiry by Robert Francis into the care provided by Mid Staffordshire NHS Foundation Trust between January 2005 and March 2009, and the previous report of the Healthcare Commission, during which time care at the hospital fell short of expected levels of quality and safety.

2.2 The report made 290 recommendations and called for all healthcare organisations to consider the findings and recommendations and how to apply these to their work. The recommendations covered the following themes:

- Accountability for implementation of the recommendations
- Putting the patient first
- Fundamental standards of behaviour
- Common culture throughout the system – an integrated hierarchy of standards of practice
- Responsibility for and effectiveness of healthcare standards and their governance
- Effective complaints handling
- Commissioning for standards
- Performance management and strategic oversight
- Patient, public and local scrutiny
- Medical training and education
- Openness, transparency and candour
- Nursing- culture of caring
- Leadership
- Professional regulation of fitness to practice
- Caring for the elderly
- Information
- Coroners and inquests
- Department of Health leadership

2.3 Although the inquiry related to failings within the NHS there are specific recommendations that are aimed at local authorities as well as more general findings which are applicable to any organisation whose actions can impact on the quality and safety of services provided to the public.

2.4 This report updates on the recommendations, which are relevant to Medway Council. The Committee has received separate updates relating to the NHS from Medway Clinical Commissioning Group. The quotes introducing each section are from the Report of the Public Inquiry.

3. Commissioning of health, public health and social care services

3.1 “The experience of Stafford shows an urgent need to rebalance and refocus commissioning into an exercise designed to procure fundamental and enhanced standards of service for patients as well as to identify the nature of the service to be provided.”

3.2 As a result of the Health and Social Care Act 2012 local authorities have a duty to commission or provide public health services. These are currently provided by NHS and non NHS providers. Although all are delivered on an outpatient or community basis there is still potential for the factors which impacted in Mid Staffordshire to occur and cause failings in care.

3.3 The Council has had a section 256 agreement with NHS Medway CCG to cover partnership commissioning arrangements for health and social care, which is in its second year. This is overseen by a Joint Commissioning

Management Group with reporting through the appropriate governance routes of the CCG and Council. The CCG and Council have a jointly funded Partnership Commissioning Team.

- 3.4 For health, social care and public health services commissioned by the Council the relevant Council and CCG systems ensure that:
- services are commissioned or provided to meet relevant standards relating to quality and safety. Contracts and service specifications have requirements relating to quality, safety and patient feedback and these are supported by key performance indicators
 - governance arrangements (including for complaints) are in place to monitor and performance manage service quality
 - arrangements are in place for obtaining the views of the public on the quality of services and the health and social care system
 - there is transparency of decision making through public meetings
- 3.5 The Memorandum of Understanding (MOU) between the Council and Medway CCG for provision of specialist public health support includes provision of work to monitor and evaluate the quality of health services. Delivery of the MOU is reported to the CCG Governing Body.
- 3.6 The CCG and Council have recently signed up to a Better Care Fund plan that has the following agreed vision:

‘We will foster a healthy and flourishing Medway through an integrated health and social care service that provides the right care, in the right place and at the right time’.

4. Healthwatch

- 4.1 “The community in Stafford was reticent in raising concerns and accepting of poor care; those who did make a complaint were not heard or given a voice.”
- 4.2 Healthwatch were new bodies commissioned by local authorities from April 2013. The key functions of Healthwatch are to engage with the public in order to influence the delivery and design of local health and social care services, signposting and independent complaints advocacy. The contract for Healthwatch for Medway was awarded in March 2013.
- 4.3 The Healthwatch contract is monitored quarterly by Partnership Commissioning and a balanced scorecard has been developed for the service. This ensures effective performance management arrangements are in place. The quarterly meetings also provide an opportunity for Healthwatch to feed in concerns about health and social care services to commissioners. The quarterly reports from Healthwatch clearly feedback engagement at relevant Overview and Scrutiny meetings.
- 4.4 Medway’s Young Inspectors recently reviewed Healthwatch and their report has been responded to by the organisation with clear action to improve their

engagement of young service users.

- 4.5 Healthwatch Medway is a member of the Health and Wellbeing Board and is represented by its Independent Chair The Very Revd Dr Mark Beach. Healthwatch participates fully in the work of the Board and also reports regularly so that the Board's work is informed by public views on health and social care services.
- 4.6 The Francis Report recognised the failings of previous public engagement activities and the new service provides an opportunity to ensure that this key element of the health and social care system is provided effectively.

5. Overview and Scrutiny

- 5.1 "The Overview and Scrutiny Committees (OSCs) in Stafford were happy to take on a role scrutinising health services but did not equate this with responsibility for identifying and acting on matters of concern; and they lacked expert advice and training, clarity about their responsibility, patient voice involvement and offered ineffective challenge"
- 5.2 The Francis Inquiry made several recommendations as a consequence of evaluating the overview and scrutiny arrangements in Mid Staffordshire:
 - (a) Those charged with oversight and regulatory roles in healthcare should monitor media reports about the organisations for which they have responsibility.
 - (b) 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'.
 - (c) 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.
 - (d) Guidance should be given to promote the coordination and cooperation between Local Healthwatch, Health and Wellbeing Boards and local government scrutiny committees.
 - (e) Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.
 - (f) 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.

- (g) 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.
- 5.3 In December 2012 the Business Support Overview and Scrutiny Committee considered the outcome of a comprehensive review of the overview and scrutiny arrangements in Medway and agreed an improvement/development programme. This included further member development in scrutiny of partners and, in particular, the scrutiny of health services, looking at the respective roles of the Health and Wellbeing Board, Healthwatch and Overview and Scrutiny Committees. Use of performance information in scrutiny was also identified as an area requiring further development locally.
- 5.4 Progress in implementation of the Medway Overview and Scrutiny improvement/development plan and other Overview and Scrutiny activity relevant to the findings of the Francis Inquiry can be summarised as follows;
- 5.5 An all-member development session on scrutiny of performance was delivered on 10 September 2013 and specifically covered the learning for local authority overview and scrutiny Committees arising from the Francis Inquiry.
- 5.6 This Committee is now routinely responding to requests from providers of health services in Medway for commentary on their Quality Accounts. Due to the timescales usually involved this is generally undertaken by officers under a delegation from the Committee after consultation with the Chairman and Oppositions Spokespersons. So far in 2014 SECAMB, Medway NHS Foundation Trust and Medway Community Healthcare have invited Overview and Scrutiny to make comments on Quality Accounts.
- 5.7 The CQC programme for April to June 2014 included an announced inspection of Medway NHS Foundation Trust and the CQC has signalled its intention to make contact with Health Overview and Scrutiny Committees before NHS inspections take place to provide an opportunity for these Committees to advise on how best the CQC may gather people's experiences of care and to share information they have about the services subject to inspection. After the recent Inspection of Medway NHS Foundation Trust it is expected that members of this Committee and the Children and Young People's Overview and Scrutiny Committee will be invited by the CQC to participate in a Quality Summit to discuss inspection findings and any improvement action needed. In view of the Inspection timescales in relation to the programme of Medway Council's Overview and Scrutiny Committee meetings this Committee has authorised the Deputy Director, Customer Contact, Leisure, Culture, Democracy and Governance to respond to any inspection related communications received from the CQC as appropriate

after consultation with the Deputy Director, Adult Social Care and the Chairman and spokespersons of this Committee.

5.8 Changes to the arrangements for local authority scrutiny of health came into effect on 1 April 2013 under the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Health scrutiny is now a non-executive function vested in full Council. In Medway the decision has been made that health scrutiny will be exercised by the HASC and CYP Overview and Scrutiny Committees together with the Joint Health Scrutiny Committee with Kent where required. In addition, the scope of health scrutiny has been extended to include a wider range of NHS providers. The Secretary of State was expected to issue new guidance to support local authorities and relevant NHS bodies and health service providers in complying with the new regulations. In addition, Government guidance has been promised in response to the recommendation of the Francis Inquiry that guidance should be provided to promote the coordination and cooperation between Local Healthwatch, Health and Wellbeing Boards and local government scrutiny committees. Whilst a report has been considered by the Health and Wellbeing Board on respective roles and responsibilities of the Board, Overview and Scrutiny Committees and Healthwatch further member development activity on this has been on hold pending publication of the expected guidance (which a DoH official confirmed had been drafted and was work in progress last July). Given the extended delay members may now wish to press ahead with a review of local working arrangements in Medway.

5.9 The Committee continues to closely monitor and scrutinise areas known to be of concern to patients, their families and carers including over the last year NHS 111, pressures in A and E, the reconfiguration of acute mental health beds in Kent and Medway, mortality rates and the quality of care and treatment at Medway NHS Foundation Trust (post-Keogh review), CQC Inspection findings relating to maternity services provided by Medway Maritime Foundation Trust and Patient Transport.

6. Medical Examiners

6.1 A new Medical Examiner system has been proposed to scrutinise and confirm the cause of death in all cases not referred to the coroner. Implementation of this system will be the responsibility of local authorities and arises from the recommendations in the Shipman Inquiry.

6.2 Consultation by the Department of Health on reforms to the death certification process has been delayed and a new implementation date has not been announced. Once guidance has been issued by the Department of Health arrangements will be made to secure a Medical Examiner service for Medway.

7. Sharing concerns

7.1 “The responsibilities and accountabilities of external agencies were not well defined, often resulting in “regulatory gaps” or failure to follow up warning signs. Organisations operated in silos, without consideration about the wider implications of their role, even guarding their territories on occasion.”

- 7.2 The Francis Report made recommendations about organisations sharing concerns about provider service quality so that commissioners and regulators are fully aware of the full range of issues of concerns in a timely fashion.
- 7.3 The NHS England Kent and Medway Area Team has established a Quality Surveillance Group, which fulfils the requirement of organisations sharing concerns about provider quality. The Director of Public Health and Director of Children and Adults are both members of the group.

8. Risk management

- 8.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Local replication of the circumstances which led to the failures in patient care in Mid Staffordshire	Failure to act on the recommendations arising from the Public Inquiry or the consequent guidance from the Department of Health.	Actions taken by Medway Council to mitigate risk are described in this report.	

9. Financial and legal implications

- 9.1 There are no direct legal or financial implications arising from the report.

10. Recommendations

- 10.1 To consider the action taken by the Council in response to the Francis Inquiry.

Lead officer contact

Dr Alison Barnett, Director of Public Health
Alison.barnett@medway.gov.uk

Background papers

Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry
Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry: Implications for Medway Council. April 2013