

## **TORBAY HEALTH SCRUTINY BOARD**

### **Tool to Support the Identification of Substantial Variations and Developments in Health Services**

#### **1. Background**

- 1.1 The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 place a duty on local NHS bodies (apart from NHS Foundation Trusts) to consult the health overview and scrutiny committee(s) on any proposals they may have under consideration for a substantial development of the health service in the area of the committees' responsibilities, or on any proposal to make any substantial variation in the provision of service(s).<sup>1</sup> The Regulations do not define the term 'substantial'.
- 1.2 The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 were amended in 2004 to apply to NHS Foundation Trusts.<sup>2</sup> Accordingly, for NHS Foundation Trusts issues of substantial variation and development apply only when an NHS Foundation Trust proposes to make an application to the Independent Regulator of NHS Foundation Trusts, Monitor, to vary the terms of its authorisation and when that application if successful would result in a substantial variation of the provision by an NHS Foundation Trust of protected goods or services in the area of a local authority. Where this regulation applies the NHS Foundation Trust is required to consult the health overview and scrutiny committee.
- 1.2 Overview and scrutiny committees and NHS bodies are encouraged to develop local agreements or sets of criteria about what might be regarded as 'substantial' in the local context. This should be informed by discussions with other key stakeholders.
- 1.3 Legislation defines 'the health service' as including social care provided or commissioned by NHS bodies who are exercising local authority functions under section 31 of the Health Act 1999. As the Partnership Agreement between Torbay Council and Torbay NHS Care Trust has been made under section 31 of the Health Act 1999 [now consolidated as section 75 of the NHS Act 2006] all of the functions of the Care Trust (including social care functions for which Torbay Council is liable) may be subject to health scrutiny.

#### **2. The Process**

- 2.1 The attached criteria have been designed to help Torbay Health Scrutiny Board and NHS partners to identify whether proposed variations or developments in services are 'substantial' and should be used only as a method of evaluating the need for statutory consultation of the Health Scrutiny Board by the NHS.

The principles used in the tool are based on the following assumptions:

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<sup>1</sup> Regulation 4 (SI 2002/3048)

<sup>2</sup> (S.I. 2004/696, section 46)

- A process will be put in place to enable regular reporting of plans and processes of NHS organisations which are presented to the Health Scrutiny Board for information or for discussion.
- NHS organisations should have regular dialogue with the Scrutiny Board Members and Officers on key developments and make use of opportunities to share information through annual reports, forward plans and the involvement of local authority staff in regular or ongoing work with NHS bodies.
- NHS organisations should provide evidence how Section 242 of the NHS Act 2006 has been undertaken in identification of proposals for change and prior to the consultation of the Health Scrutiny Board.
- The Health Scrutiny Board is committed to a clear and transparent approach to decision-making and identifying whether an issue is considered 'substantial'.

### **3. The Tool**

- 3.1 This assessment tool has been developed by Torbay Health Scrutiny Board following a training day in November 2009. The Board has made use of protocols developed by other local authorities across the country which have been modified for local use.
- 3.2 Local NHS bodies have received and commented favourably upon the assessment tool.
- 3.3 The tool will be reviewed on an annual basis and updated accordingly.

### **4. Implementation**

- Each NHS organisation is asked to complete the attached Key Information to be provided when there is major change to services experienced by patients and future patients. Each section should be completed individually and evidence provided to support statements made.
- In their submission, each NHS organisation will be required to provide clear evidence about how patients and the public have been involved in the process, including what information has been shared with Local Involvement Networks or other patient groups.
- The completed information should be sent to the Scrutiny Officer, by the agreed date, who will copy it to members of the Board. The Board members will discuss the material provided and will ask the NHS organisation to attend the Board's next meeting to answer questions. At the conclusion of consideration of the proposed change a view will be taken on whether the Board considers the proposal to be substantial or not.
- If the Board considers that the proposal is substantial, and that it wishes to be consulted, it will agree the process of its consultation with the NHS body.

## Key Information to be provided

The following checklist of questions and information has been identified to help both the Torbay Health Scrutiny Board and the NHS to reach consensus about whether a proposed variation or development to health services is 'substantial'. It is not meant to be exhaustive and all aspects may not be relevant to all proposals for changing services. It is likely that there will be additional questions needed that relate to the details of each proposal.

The NHS organisation that is leading the development of proposals, whether commissioner or provider, is asked to consider each of the questions on the following pages and to provide information in response to Torbay Health Scrutiny Board **by the date agreed**. The Board will consider the responses provided at its next meeting and will expect the lead NHS body to attend the meeting to answer supplementary questions. Following this discussion, the Board will decide:

- a) whether it considers the proposal(s) to be substantial, and if so why;
- b) whether it wishes to be consulted on proposals, and if so how the consultation might take place;
- c) any recommendations that it considers the NHS body might take into account regarding the proposal(s).

*Please complete the following contact information*

**Name of lead NHS organisation and contact:** Helen Toker- Lester

**Brief description of the proposal:** Occombe House re-provision.

**Description of population affected:** Seven current residents and 12 families and individuals who currently use Occombe house for short breaks.

**How the affected communities have been involved in developing proposals:**  
Regular meetings, and advocacy including best interest assessment.

**Name of primary stakeholders involved in or supporting the proposal:**  
People using services, families, staff, community groups.

Criteria for assessment	Comments and location of supporting evidence	Board comments
<p><b><u>Case for change information</u></b></p> <p>1. What are the reasons for change? (<i>For example, key drivers, changing policy, workforce considerations, gaps in service, service improvement, national policy.</i>)</p> <p>2. How will the proposals contribute to the achievement of national and NHS priorities/targets in Torbay?</p> <p>3. Have patients affected contributed to the development of proposals?</p> <p>4. Have clinicians affected contributed to the development of the proposals?</p> <p>5. Is any aspect of the proposal contested by the clinicians</p>	<p>Meeting the changing needs of residents now and in the future through service improvement. Local and National Policy such as “Valuing People Now, and our locally approved policy “Getting a life, not just a Service.”</p> <p>This falls under the NHS promise number ten that states “We will improve services for people who need mental health and learning disability services.”</p> <p>Many of the people at Ocombe lack capacity to give a direct response. However they have been able to contribute indirectly through observation of personal preferences.</p> <p>Individuals have differing levels of involvement from staff in the multi disciplinary team. Clinicians would only be involved if there was a specific need.</p> <p>No.</p>	

Criteria for assessment	Comments and location of supporting evidence	<i>Board comments</i>
<p>affected?</p> <p>6. What is the impact on the current providers of the service?</p> <p>7. Have both providers and commissioners provided assurances/support for the proposal?</p> <p>8. What was the range of options considered?</p>	<p>Some staff may choose to move with individuals after service reconfiguration. TUPE would apply in this case. Other staff may be absorbed into similar existing work within the Trust. For people using short breaks some will now use Baytree house and some independent sector providers.</p> <p>Yes.</p> <p>Four options were considered in the original paper regarding Occombe.</p>	
<p><b><u>Changes in accessibility</u></b></p> <p>1. How will the proposals influence access to services? <i>Evidence should include:</i></p> <ul style="list-style-type: none"> <li>• waiting times</li> <li>• transport</li> <li>• travel times</li> <li>• access for people with disabilities</li> <li>• potential additional costs</li> </ul>	<p>The overall cost for re provision of both short breaks and residential support came in at slightly less than the current service. All services will be designed to increase accessibility.</p> <p>People changing short breaks service will have some use of Baytree and other services of their choice.</p>	

Criteria for assessment	Comments and location of supporting evidence	<i>Board comments</i>
<p>2. Will the proposal improve the quality of care for service users?</p> <p>3. Will the proposals improve patient choice?</p> <p>4. Will the proposals enable all users that need to use the service to access it?</p> <p>5. How will service users be encouraged to access the developed/changed service?</p> <p>6. Do the proposals include transitional arrangements to ensure no loss of access during the period of change?</p>	<p>Yes, more 1;1 hours will be available and 24 hour support for all individuals who use residential care at Occombe currently.</p> <p>Yes, extra 1;1 support means people will have much more choice about what they do with their time rather than having to fit in with a large group. Short breaks will be offered by arrange of providers.</p> <p>This proposal only refers to the people at Occombe.</p> <p>Each person will have their own support plan detailing what they do with their time. They may choose a range of services with their additional support that is new or different to what they do now. It provides a better opportunity to try some new things.</p> <p>Yes,- each person will have transitional support arrangements such as pre move visits, getting to know new staff and any action plans needed around fundamental care needs.</p>	
<p><b><u>Patients affected</u></b></p> <p>1. How many patients and carers are</p>	<p>7 residents at Occombe and approximately 12 families who use the short breaks service.</p>	

Criteria for assessment	Comments and location of supporting evidence	<b>Board comments</b>
<p>predicted to be affected by the proposals?</p> <p>2. Which groups of patients have been identified as likely to be affected by the proposals?</p> <p>3. What demographic data has been taken into account? (<i>For example, how has social exclusion been considered?</i>)</p> <p>3. What input has the LINK had in the development of proposals, and what have they said?</p> <p>4. Is there evidence that the proposal will lead to improved outcomes for patients? (<i>Provide evidence, include local evidence</i>)</p>	<p>People using Occombe House.</p> <p>The aim of re provision is to tackle social exclusion by supporting people to be part of their community.</p> <p>The main input has been via SPOT and Vocal specialist advocacy services.</p> <p>A range of evidence exists nationally and internationally to support the notion that supported living has better outcomes for people than group homes and residential care.-Please access this link  <a href="http://www.supportedliving.org.au/resources/research.html">http://www.supportedliving.org.au/resources/research.html</a></p>	
<p><b><u>Impact of the proposal on the wider community</u></b></p> <p>1.Has an equalities impact assessment been undertaken?</p>	<p>Yes ,-this follows Torbay Care Trust procedure.</p>	

Criteria for assessment	Comments and location of supporting evidence	Board comments
<p>2. Will the proposal provide an improvement to services within the community?</p> <p>3. Will there be a need for additional travel or changes to travel arrangements for patients and/or carers?</p> <p>4. What is the projected impact of the proposal on waiting times?</p> <p>5. What is the potential impact of the proposal(s) on other existing services, for example,</p> <ul style="list-style-type: none"> <li>• social care services</li> <li>• housing</li> <li>• environmental policies</li> <li>• other NHS services</li> <li>• others?</li> </ul> <p>6. Is there likely to be an impact on the local economy? (For</p>	<p>The proposal implicates the development of accessible housing for people who have physical disabilities. This resource would be utilised long into the future.</p> <p>Families have asked that any redevelopment should be within 30 miles of the current service, but it is likely that alternative provision would be much more local.</p> <p>N/A</p> <p>This proposal falls under social care.</p> <p>Housing have been notified of possible accommodation requirements.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>No major impact.</p>	



Criteria for assessment	Comments and location of supporting evidence	<b>Board comments</b>
<p><i>example, employment, businesses.)</i></p> <p>7. How will the proposal(s) affect health inequalities?</p> <p>8. How have future demographic predictions been taken into account? <i>(For example, how have future patient flows and/or catchment areas for services been addressed?)</i></p>	<p>This proposal will not impact on health inequalities.</p> <p>There has been a steady decline in demand for residential care so this proposal supports demographic demand.</p>	
<p><b><u>Methods of service delivery</u></b></p> <p>1. Does the proposal result in a change in method of service delivery?</p> <p>2. What are the views of the LINK, other patients, and patients' forums?</p> <p>3. Does the proposal result in a change in the location of service delivery?</p> <p>4. Is there a potential impact on domiciliary care services? If so, what?</p> <p>5. Is there a potential impact on GP and/or other primary care</p>	<p>Yes</p> <p>Local advocacy groups have not contested this proposal supporting the view that people should have better choice.</p> <p>Yes.</p> <p>The people at Ocombe would use services under the "Enhanced Domiciliary care" specification this is not block contracted and does not impact on standard domiciliary care arrangements.</p> <p>People may choose to re register with the local GP where they live, As this is only 7 people this should not impact upon GP practices to a high degree.</p>	

Criteria for assessment	Comments and location of supporting evidence	<i>Board comments</i>
<p>services? If so, what?</p> <p>6. Is there a potential impact on ambulance service patients? If so, what?</p>	No.	

Criteria for assessment	Comments and location of supporting evidence	Board comments
<p><b><u>Finance/Value for Money</u></b></p> <p>1. Is the proposal sustainable?</p> <p>2. Is the proposal consistent with the organisation's strategic plan?</p> <p>3. What is the business case for the proposal? (<i>Provide details</i>)</p> <p>4. What are the risks and benefits of the options?</p> <p>5. How do the proposals impact on the existing budget?</p> <p>6. Is there a potential financial impact on local authority services?</p> <p>7. Is the proposal reliant on additional or external funding? If so, are there limitations or time constraints that the Board should be aware of?</p>	<p>Yes.</p> <p>Yes.</p> <p>This was included in the original Council Paper.</p> <p>This was included in the original Council Paper.</p> <p>Likely to be £15k per annum less expenditure.</p> <p>No.</p> <p>People will be entitled to claim some benefits that they can't now to cover non care costs. This has been taken into account in the costs for services.</p>	

## Flow chart identifying process of deciding whether an issue is substantial

