

RCN Policy Unit

Policy Briefing 14/2006

Local lobbying: Working with Health Scrutiny

ABSTRACT

The following briefing relates to the function of Local Authority Overview and Scrutiny Committees and their role in health services. The briefing is intended to enable RCN members to use the system of overview and scrutiny so that they can fully represent the interests of nurses and patients.

August 2006

Health Scrutiny

- 1.1 This short briefing note describes how the RCN can work with the local authority Health Scrutiny process to influence the local health economy; influence local politicians and establish new partnership working opportunities.
- 1.2 Since January 2003, all local councils with responsibility for social services (County Councils, Unitary Authorities & London Borough Councils) have the power to scrutinise health services, through **overview and scrutiny committees** or **OSCs**.

Legislation

- 2.1 The NHS is compelled by the Health and Social Care Act 2001 to consult local OSCs on any proposals it may have for 'substantial variation' in services, whilst the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 made under the Act provide specific details of the health scrutiny function.

Context

- 3.1 Overview and scrutiny of health is seen as an important part of the Government's commitment to place patients and the public at the centre of health services. It is the fundamental way by which democratically elected community leaders may voice the views of their local constituents and require local NHS bodies to listen and respond. In this way local authorities can assist to reduce health inequalities and promote and support health improvement.

Powers and functions

- 4.1 Health OSCs can be loosely compared to Parliamentary Select Committees in the way that they monitor the ongoing operation and planning of local health services in all sectors – acute, primary care and mental health. The Department of Health (DoH) issued guidance in May 2003 (Overview and Scrutiny of Health – Guidance) to assist with the planning and development of effective overview and scrutiny process. The powers of overview and scrutiny of the NHS enables OSCs to review any matter relating to the planning, provision and operation of health services in the area of its local authority.
- 4.2 DoH guidance requires the local NHS to:
 - provide OSC with such information about the planning, provision and operation of health services OSC may reasonably require to undertake its work. Where a request for information is refused by the local NHS, OSC

may refer the issue to the body responsible for performance managing the NHS organisation;

- comply with any request from OSC for the attendance of an officer from the local NHS to answer questions in relation to a scrutiny review or inquiry;
- ensure that NHS staff work closely with local authority staff in planning the overview and scrutiny programme

- 4.3 In practice, OSCs will set their annual work programme in consultation with the local NHS bodies. This includes a mix of distinct inquiries into public health/health inequality issues (i.e. smoking, Alcohol etc); and **formal consultations on substantial service variations** and reconfigurations (as required by regulation) as well as more minor service changes.

Substantial service variation & formal consultation

- 5.1 Unhelpfully, the 2003 regulations do not provide a *definitive* definition of *substantial* variation, although it did *suggest* the following:-
- Changes in accessibility of services – *eg, reductions or increases on a site or changes in opening times for a clinic*
 - Impact of proposals on the wider community and other services – *this can include economic impact and transport*
 - Patients affected – *changes may affect the whole population such as changes to A&E services or a small group of patients attending a particular clinic*
 - Methods of service delivery – *altering the way services are delivered, such as moving a service from a hospital to community setting*

Public involvement

- 6.1 Generally, OSC's will also receive requests from the public and other 'interest groups' to undertake a review or look at a particular local health issue. These are often rolled up into its annual work programme.

Outcome of a Scrutiny Review

- 7.1 Following an inquiry or review, OSC will produce a written final report with recommendations for the NHS. Whilst OSCs do not have any formal powers to compel the local NHS to implement its recommendations, the NHS is required to respond (usually within 28 days) to any recommendations. Finally, in certain circumstances, Health OSCs can refer contested *service variations* to the Secretary of State for Health.

Health OSC – what does it look like?

- 8.1 Health OSCs usually meet monthly and consist of elected Councillors from all political parties represented on the Council and can include co-opted members from voluntary groups, local Patients' groups (such as Patient and Public Involvement Forums) etc. OSCs are usually chaired by a senior backbench Councillor, often from the controlling political group, although scrutiny is viewed as a by-partisan function. OSC will be supported by a committee clerk and in larger local authorities, by an appointed adviser.
- 8.2 Local government legislation provides for all OSC meetings to be open to the public (although they can be 'closed' in very specific circumstances) and copies of all agenda papers should be made available, either at the meeting or on the Council's website.

Opportunities to engage in the Scrutiny Process

- 9.1 There are opportunities for stake holders, interest groups and the public to influence the NHS and local authority through the scrutiny process. Government guidance suggests that the strength of scrutiny lies in its independence and ability to take on board different perspectives. As a consequence, OSCs are keen to develop constructive relationships with health stakeholders and interest groups to help support their work; provide information and data, and provide that different perspective on health issues.
- 9.2 This means that stakeholders and interest groups can be reactive and proactive in their approach OSC seeking to:
- raise matters of direct concern in relation to service provision and reconfiguration;
 - shape the future OSC work programme with health policy issues; and
 - generally inform scrutiny work with comment, data and information

Developing relationships with Scrutiny

- 10.1 The Scrutiny process is supported by salaried staff (non-political appointments) employed by the local authority, located in Overview and Scrutiny support teams within the Council's Chief Executives Department or Department responsible for Democratic Services.
- 10.2 In larger local authorities, OSC will have a policy adviser – who provides the political advice as well as policy and research assistance; and a committee clerk who provides the administrative support, such as drafting the agenda for meetings. However, smaller councils will combine these roles.
- 10.3 Identifying and seeking an opportunity to talk to these individuals, as well as the OSC Chair (an elected Councillor) is key to establishing a dialogue and developing an effective relationship. They can provide:

- an overview of issues of concern to OSC
 - provide a briefing on the Scrutiny agenda and the council's 'own' health agenda – past & present
 - provide a timetable of any forthcoming NHS consultations
 - give advice on how to engage with scrutiny and raise issues with OSC
 - sign post NHS officers and others dealing with particular issues
 - provide more general advice on how the local authority and NHS work together
- 10.4 The scrutiny process varies in detail from Council to Council and further information as well as contact details can be found on the appropriate council website.

Contacting Health Scrutiny

- 11.1 Contact details can be found on the website for the local authority, usually under Scrutiny or Democratic process. Alternatively, telephone the local authority and ask for overview and scrutiny.

References

- Health and Social Care Act 2001
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsLegislation/PublicationsLegislationArticle/fs/en?CONTENT_ID=4006257&chk=NoDbs2
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