

# Engaging local people

A guide for local areas developing  
Sustainability and Transformation Plans

September 2016

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### A guide for local areas developing Sustainability and Transformation Plans

**Version number:** 1

**First published:** September 2016

**Prepared by:** NHS England

**This document is for:** Teams developing Sustainability and Transformation Plans (STPs) in each of the 44 footprint areas, and the statutory organisations which form part of them

**Publications Gateway Reference:** 05761

**The NHS Five Year Forward View sets out a vision for the future of the NHS. It was developed by the partner organisations that deliver and oversee health and care services including:**

- NHS England\*
- NHS Improvement\*
- Health Education England (HEE)
- The National Institute for Health and Care Excellence (NICE)
- Public Health England (PHE)
- Care Quality Commission (CQC)

\*The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

\*NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams.

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## 1 Who is this document for?

This document, set out in the form of questions and answers, is for teams developing Sustainability and Transformation Plans (STPs) in each of the 44 footprint areas, and the statutory organisations which form part of them. Local statutory bodies are responsible for engaging and consulting on their proposals, and the relevant legal duties around engagement and consultation are set out in section 4 and Annex A.

It is intended to clarify the expectations on stakeholder involvement, in particular patient and public participation. It will be of particular interest to communication and engagement leads for STPs and footprint leaders. While the emphasis of this document is on patient and public participation, it is important that as part of their planning processes, those working to deliver STPs consider how they will engage with the governance structures of each of the constituent organisations across their footprint area.

## 2 Introduction

Local health and social care services have improved in recent years. People are living longer, waiting times are shorter, and treatments for cancer and heart disease - for example - are better than ever.

However, there are still improvements that need to be made to make sure that local health and care services are the best they can be – both now and in future years. We believe that health and care services, people, communities and stakeholders, need to work more closely together, and in new ways, to achieve three key aims in the next four years (by 2020/21), which collectively will help provide better services for the public. The aims are to:

- **improve the quality of care people receive;**
- **improve health and wellbeing; and**
- **ensure our services are efficient.**

It will only be possible to achieve these goals by working together. This means patients, the public, carers, clinicians, stakeholders and individual local health organisations (such as GPs, hospitals and local authorities) joining forces to agree a plan to improve local health and care services.

These local plans for better health and care are known as STPs. They will support the delivery of a national plan called the Five Year Forward View (5YFV). Published in 2014, it set out a vision of a better NHS, and the steps we should take to get us there by 2020/21.

To succeed, STPs will need to be developed with, and based upon, the needs of local patients and communities and engage clinicians and other care professionals,

staff and wider partners such as local government. And we cannot develop care coordinated and centred around the needs of patients and users without understanding what communities want and without our partners in local government. That is why we need robust local engagement plans as part of the STP process.

In our [June STP submission guidance](#) we set out expectations that STPs would include the following elements:

- Plan to engage more formally with NHS boards and those of their partners after the July conversations between STP leads and representatives from national bodies;
- How footprints have engaged organisations and other key stakeholders so far, and with whom they are still to engaged; and
- Evidence or plans to involve staff, clinicians and care professionals, patients and Health and Wellbeing Boards etc.

Local proposals for health and care transformation are not expected to have gone through formal local NHS or other organisations' board approval and/or formal public engagement or consultation at this early stage. It may be helpful to have early discussions which set out:

- a shared view from your team on the likely direction of travel for services in your area;
- existing or early insight about the needs and views of patients and the public; and
- your approach to engaging formally with boards, partners, patients and the public going forward with the STP process.

We expect that most areas will take a version of their STP to their organisation's public board meeting for discussion between late October and the end of the year.

We would also expect that most areas will publish their plans, for more formal engagement, during this period - building on the engagement they have already done to shape thinking.

Every area will be working to a different timeframe, based on its own circumstances and how well-progressed its plan is.

In this document, we primarily talk about involving patients and the public. Other terms are often used, such as engagement, consultation, participation and patient or public voice – these are all phrases used to describe different ways in which the public can be involved and are not mutually exclusive. Consultation is just one of the many possible types of public involvement that can be carried out by health and social care providers and commissioners to meet their legal duties relating to public involvement (see Annex A for information about the relevant duties).

This guidance is intended to support the STP process but does not replace each organisation's own legal responsibilities to involve the public. STP footprints are not statutory bodies – but discussion fora – so individual organisations within each remain accountable for ensuring their legal duties are met during the STP design, delivery and implementation process.

### 3 Why is the involvement of people, communities and stakeholders important in developing STPs?

Involving people, communities and stakeholders in developing plans is the right thing to do to ensure that the plans and their implementation are robust and meet the needs of people and communities. Building on the [six principles for engaging people and communities](#), STP partners should work with the knowledge, skills and experience of people in their communities, working in [co-production](#) to improve access and outcomes.

Involving people, communities and stakeholders meaningfully is essential to effective service improvement and system transformation, from collectively identifying problems and designing solutions to influencing delivery and review. Effective communication and involvement throughout the process will help to build ownership and support for proposals to transform health and care and will also help identify potential areas of concern.

In addition, public bodies with responsibility for STPs have a variety of legal duties including to involve the public in the exercise of their statutory functions. Not doing so effectively is likely to cause legal challenge and lengthy delay. A well thought through and documented engagement approach, that involves local stakeholders on an ongoing basis and identifies those experiencing the greatest health inequalities, will lead to:

- the development of better quality STPs;
- STPs that draw on a range of insight and expertise, including from patients and the public; and
- reduced risk of legal challenge.

### 4 Whose legal duty is it to involve the public or consult?

Clinical Commissioning Groups (CCGs), local authorities, NHS trusts, NHS foundation trusts and NHS England all have separate, but similar, obligations to consult or otherwise involve the public.<sup>1</sup> Joint public involvement exercises are encouraged as they reduce the burden on patients and the public. They are likely to have wider reach into communities, help ensure a joined up approach across the STP footprint, and save time and money. Where joint exercises are developed, local partners will need to:

- ensure clarity about roles and responsibilities between the different organisations involved;

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<sup>1</sup> For example, CCGs (section 14Z2 of the NHS Act 2006, as amended by the Health and Social Care Act 2012), NHS England (section 13Q of the NHS Act 2006, as amended by the Health and Social Care Act 2012). Commissioners must also consult the local authority on substantial developments or variation in health services [S244 \(NHS Act 2006\)](#).

- ensure they understand and have taken account of the governance and assurance requirements for their constituent organisations of the STP, and have reflected these requirements in their timetable;
- consider how the constituent organisations should discharge their involvement duties with regard to the changes that are being consulted on; and
- ensure consistent messages about the case for change and the options for change that are being proposed.

See Annex A for more detail on the relevant statutory duties.

## 5 Who should we be talking to as we develop our plans?

It is essential that the STP partners in every area have an ongoing dialogue with patients, volunteers, carers, clinicians and other staff, citizens, the local voluntary and community sector, local government officers and local politicians, including those representing health and wellbeing boards and scrutiny committees and MPs. And local areas may wish to consider how to engage people who live outside the footprint area but access health and care services within it and may therefore be affected by footprint proposals.

Working with existing networks will help to maximise efficiency and effectiveness. Such networks will include CCG Lay Members, voluntary, community and social enterprise (VCSE) networks, Trust non-executive directors and governors, community networks and neighbourhood fora, Healthwatch, Health and Wellbeing Boards, Strategic Clinical Networks and Senates and [Academic Health Science Networks](#)). Local councillors can also provide a wide reach and depth of engagement with local populations, as well as working relationships with local neighbourhood or special interest groups.

As proposals take shape, there are a number of [bespoke activities that STP partners could develop at the most appropriate level/s to strengthen participation](#), such as establishing citizen summits or panels, participatory events, or strengthening the roles of lay peers and champions.<sup>2</sup>

Health Overview and Scrutiny Committees and Health and Wellbeing Boards provide established channels to consult the public and involve local politicians. We advise that you discuss with your local government partners the most appropriate route to engage local politicians. Under the 2006 NHS Act and supporting regulations, scrutiny committees have the power to scrutinise the planning, provision or operation of health services in their area.

Where STP footprints cross local government boundaries, some local authorities are considering establishing joint boards or committees.

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<sup>2</sup> The [Participation Toolkit](#) (Scottish Health Council, 2014) has a comprehensive and up-to-date list of different participation methods.

VCSE organisations can help to reach those who experience the greatest health inequalities, including those who work with people with [protected characteristics](#). Particular emphasis should be given to engagement with people who are less frequently heard and who experience the greatest inequalities in health outcomes. This will help to ensure that informed and conscious consideration is given to assessing needs in respect of the equality and inequality duties. Locally, the best source of support for linking with the voluntary sector is frequently [the council for voluntary services \(CVS\)](#), sometimes called a local development and support agency.

Consider using community-centred and asset based approaches<sup>3</sup> that recognise the range of approaches to transforming services, reducing health inequalities and closing the three ‘gaps’ highlighted in the [5YFV](#). These approaches will help to ensure that people from all sections of the community are able to participate.

It is essential that STP partners engage staff from constituent organisations, working through the internal communication channels available (including with unions). In particular, clinicians should be engaged in the case for change, based on the best available evidence. Clinicians are powerful advocates and play an important role in communicating the need for change and potential solutions to a wider community.

## 6 When should we be involving people in the STP process?

### Stages for STP engagement<sup>4</sup>



All footprints should be engaging with local people via [Healthwatch](#) and other patient and public groups, to discuss and shape their proposals. This will help them to understand what matters to local people and how services might be improved. These early stages require that key stakeholders have been identified and discussion is taking place based on the emerging and draft content of the STPs. Although this type of involvement does not require full plans to be published at this early stage

<sup>3</sup> An example of an asset-based approach is co-production, where services are designed with service users and carers. The [Six principles for engaging people and communities](#) (5YFV People and Communities Board, June 2016) contains further information.

<sup>4</sup> These stages may apply to both the overall STP and/or different components (such as a service change proposal that forms part of the STP).



while they are still in development, sufficient information should be provided to identify stakeholders to enable them to be involved in a meaningful way.

Moving forward in the STP process, footprints must start to identify which proposed changes will have an impact upon the delivery of services to patients or the range of services available. They should develop their engagement plan, including the resources needed and the timeline for involving the public. Exact timelines will depend on the scale of the changes proposed and the amount of engagement that has already taken place. STP footprints and the relevant organisations within them may wish to take advice on their specific proposals from a legal perspective and test their approach with local stakeholders, including health overview and scrutiny committee(s). As per the [STP guidance issued in May](#), STP submissions should include engagement plans for both ongoing dialogue with stakeholders and for any formal public consultations required for major service changes.

As part of the ongoing involvement that underpins STPs, stakeholders will want to know that footprint areas and organisations within them are taking account of existing insight about patient experience and about the service needs and expectations of patients and the public. This could include insight from previous involvement, such as:

- insight from previous consultations on service change in the footprint geography;
- consultation during the development of commissioning plans by Clinical Commissioning Groups (CCGs);
- intelligence from local organisations such as the voluntary sector or local Healthwatch; and
- Health and Wellbeing Strategies and Joint Strategic Needs Assessments.

They will also want to know key milestones for publication of plans and decision-making. Clear written documentation, within a robust engagement plan, of how previous insight and involvement has contributed to initial plans will help you to identify what further involvement is required in relation to proposals for change.

When planning for engagement, it is important to co-ordinate activity in a meaningful way, for example working together across service areas or organisations to develop joint approaches where possible.

## **7 Which methods should we use to involve patients and the public or to consult?**

Lay representatives and establishing reference or advisory groups can help. STP partners can make use of existing lay involvement in governance to support this, for example, working with Patient and Public Involvement Lay Members on CCG Governing Bodies or trust non-executive directors.

Additional involvement or consultation will depend on the changes proposed. There is always a legal duty for NHS commissioners and providers to involve the public in

planning, and in proposals for change and operational decisions that have an impact on services.

There are also specific legal duties on local government in regard to changes in their service provision locally. For example, local authorities have general duties to consult on significant changes to services, as well as specific duties around: specific groups, such as under equality legislation; activities, such as on fees and charges; or on local priorities, such as specific community groups.

To ensure that you reach a wide range of people, a variety of involvement approaches including face-to-face events, focus groups, digital involvement, dedicated events with communities of interest may be appropriate. This helps to ensure that those experiencing the greatest health inequalities are reached.

The method you use should be appropriate to the nature of the engagement exercise and the appropriate audience. Online methods can often be useful, but are unlikely to be accessible for all audiences, for example older people from more disadvantaged socio-economic groups.

As a general rule, the greater the extent of changes and number of people affected, the greater the level of activity that is likely to be necessary to achieve an appropriate and proportionate level of public involvement. However, the nature and extent of public involvement, including the length of consultation required will always depend on local circumstances.

Whichever methods of involvement are used, it is essential that the approach is documented and agreed through governance structures, and that there is an audit trail of the activity that has taken place, including questions raised and the response to them. This will strengthen proposals, highlight likely areas of concern, and provide evidence in the event of subsequent challenge.

## **8 How do we know if a formal public consultation is needed?**

A formal public consultation is not needed for every service change. However, it is likely to be needed should substantial changes to the configuration of health services in a local area be proposed, such as hospital closure, or significant service change. It is therefore necessary to include consideration of the need for public consultation, and how this can be undertaken if required, in the overall STP.

This will also trigger the requirement to consult the local authority on substantial developments or variation in health services.<sup>5</sup> Where a proposal for change covers more than one local authority area, STP partners will need to talk to local authorities about joint arrangements, for example a Joint Overview and Scrutiny Panel. It is also important that proposed consultation processes and options are tested with local stakeholders such as local authority scrutiny colleagues. Local voluntary sector

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<sup>5</sup> Section 244 NHS Act 2006 (as amended).

organisations and local Healthwatch may also be willing to review proposed engagement plans.

Where service change is substantial and significant, the relevant organisations within the STP footprint should ensure that they understand their legal duties and plan the time and resource to deliver the consultation effectively. Not planning effectively in this way could mean that proposed changes may be delayed or not carried through.

When undertaking consultation on proposed service changes, proposing bodies need to have:

- an outline of how previous engagement has contributed to developing the content of the consultation;
- clear information on the range of options being proposed, including if appropriate an explanation of why one option is preferred;
- a detailed plan for reaching all those who will be affected by proposed changes, including staff; people who use services, their families and carers; voluntary sector; equalities protected groups – using a range of engagement channels; and
- an effective approach to informing the media.

## 9 Are there any basic consultation principles we can build on?

The guiding principles are fairness and proportionality, taking into account the extent of the change and the number of people affected. The Gunning Principles<sup>6</sup> provide a helpful overview of what constitutes a fair consultation process:

- Consultation must take place when the proposal is still at a formative stage** – consultation cannot take place on a decision that has already been made. Decision makers can consult on a ‘preferred option’ (of which those being consulted should be informed) and even a ‘decision in principle’ as long as they are genuinely open to influence.
- Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response** – those being consulted should be made aware of the basis on which a proposal for consultation has been considered and will be considered thereafter, including any criteria to be applied or factors to be considered.
- Adequate time must be given for consideration and response** – there is no automatically required time frame within which the consultation must take place unless statutory time requirements are prescribed. A rationale must be set out for any departure from that expected timeframe.
- The product of consultation must be conscientiously taken into account** – decision makers must properly consider the material produced by the consultation.

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<sup>6</sup> Case law has resulted in a set of principles known as the *Gunning Principles* that set out the legal expectations of what is appropriate consultation. The emphasis is on ‘fairness’; the process must be *substantively fair* and have *the appearance of fairness*.

Additionally, the Cabinet Office published revised [Consultation Principles in February 2016](#).

## **10 Making the plans clear**

Using jargon free and accessible language that is appropriate to the audience will be essential to ensuring that people can participate meaningfully. So STPs are “local plans for health and care services”. Local organisations such as those in the voluntary sector or local Healthwatch may be able to provide information about whether engagement materials will be accessible for local people.

## **11 Should we consult for 12 weeks?**

The principles are that the consultation approach must be fair and proportionate (see section 9). The nature and extent of public involvement, including the length of consultation required, will always depend on the specific circumstances of an individual service change process and the population concerned. There is no legal requirement that consultation must last 12 weeks. If you consult for less than 12 weeks, you will need to be able to justify your reasons for doing this, and discuss with the relevant overview and scrutiny committees.

## **12 Do we need to consult if we only think there is one clear proposal for service change?**

The legal requirement to involve patients and the public in planning and proposals for change still stands if there is only one proposal, or a preferred option. Service change must be evidence-based, and this evidence should be publicly available during the consultation and decision-making stages. It is important that the consultation is approached in a way that is genuinely open to influence.

It will only be reasonable to justify carrying out a limited or no public involvement exercise on grounds of urgency when the lack of time was genuinely caused by an urgent development or where there is a genuine risk to the health, safety or welfare of patients or staff. In such cases, local organisations must balance legal duties to involve and consult with maintaining continuity of care and protecting patients or staff.

## 13 What if we identify that there is a lack of capacity to carry out the required engagement and consultation?

Skills and experience to carry out the required engagement are likely to be found in the communication, engagement and patient experience teams of STP partners in the NHS, local government and beyond.

Formal public consultations may require additional communications and engagement capacity, and you may wish to consider including this within programme and resource planning. The skills and experience can also be commissioned from the voluntary sector, local Healthwatch and via Commissioning Support Unit (CSU) frameworks.<sup>7</sup> It is important that there is an 'intelligent customer' in the STP communications and engagement team who has skills and experience in public involvement and the associated legal duties. This will enable STP partners to manage any external resource effectively and ensure aligned approaches across the different organisations involved, and ensure that legal requirements are met. Local government communications colleagues also have significant expertise and experience in developing and managing communications around change.

Many STP footprints will find that ongoing engagement can be supported through the existing engagement infrastructure of STP partners.

Although specialist communications and engagement resource is often seen as an additional capacity need, failure to appropriately involve patients and the public in plans may lead to judicial review and criticism, regardless of any resource constraints. More importantly, it could lead to proposals that do not adequately meet the needs of the local community. Investment in a team of specialist staff may help to mitigate this risk and lead to improved engagement with stakeholders.

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<sup>7</sup> For advice on securing engagement support from the local voluntary sector, talk to the relevant local councils or umbrella bodies for voluntary services. For advice on securing engagement support from CSUs, talk to the NHS England regional communication team.

## Annex A – Relevant Statutory Duties

This Annex sets out a summary of the main statutory duties that apply to the organisations involved in the STP process and may give rise to a legal requirement to involve patients, the public and other stakeholders.

This is not a definitive list of every such duty and organisations must have regard to their own legal duties and existing arrangements for consulting with or otherwise involving the public. The statutory duties set out below should be considered in conjunction with the guidance on public involvement and principles of lawful consultation, as set out in the body of this guidance and elsewhere.

Organisations should also be mindful that in some circumstances it may be incumbent upon a public body to involve the public as part of its general duty to act fairly, even if this is not required by statute. For example, where consultations have been promised to the public or a well-established and consistent past practice of consulting the public exists, the duty to act fairly may require that such commitments and expectations are met.

References to legislation are to such legislation as amended, in particular by the Health and Social Care Act 2012.

### **Public involvement and consultation by NHS England, CCGs, NHS foundation trusts and NHS trusts**

*National Health Service Act 2006: section 13Q (NHS England), 14Z2 (CCGs) and 242 (NHS foundation trusts and NHS trusts).*

NHS England, CCGs, NHS foundation trusts and NHS trusts are all under a duty to make arrangements to involve patients in:

- the planning of commissioning arrangements (NHS England & CCGs) or provision of services (NHS foundation trusts and NHS trusts);
- the development and consideration of proposals for changes in the way those services are commissioned/provided which would have an impact upon the range of services available or the manner of their delivery; and
- decisions affecting the operation of those commissioning arrangements/services which would have such an impact.

CCGs are required to set out in their constitutions:

- A description of their arrangements to meet the above duty; and
- A statement of the principles which they will follow in implementing those arrangements.

CCGs are also required to have regard to relevant guidance published by NHS England, that is, [Transforming Participation in Health and Care](#).

NHS foundation trusts and NHS trusts are required to have regard to relevant guidance published by the Secretary of State, that is, [Real involvement: working with people to improve services, and Involving people and communities: a brief guide to the NHS duties to involve and report on consultation](#) (please note that this guidance has not been updated to reflect the abolition of primary care trusts and strategic health authorities, but still applies to NHS foundation trusts and NHS trusts).

## **Review and scrutiny by local authorities**

*National Health Service Act 2006: Part 12, Chapter 3.  
Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013: Part 4.*

Local authorities have a role in reviewing and scrutinising matters relating to the planning, provision and operation of health services in their local area. This role is usually carried out by an overview and scrutiny committee of the local authority for its local area or a joint overview scrutiny committee appointed by two or more local authorities to cover a larger area.

Commissioners and providers of NHS services (including NHS England, CCGs, NHS trusts, NHS foundation trusts and private providers) must consult the local authority where they are considering any proposal for a substantial development or variation of the health service in the area. Ordinarily, where the services in question are commissioned by NHS England or CCGs (as the case may be), the commissioners carry out this exercise on behalf of providers. Providers of public health services commissioned by the local authority are also required to consult the local authority in the same way as commissioners and providers of NHS services.

The local authority may scrutinise such proposals and make reports and recommendations to NHS England and the Secretary of State for Health. Legislation provides for exemptions from the duty to consult in certain circumstances, for example where the decision must be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. As part of the overview and scrutiny process, the local authority will invite comment from interested parties and take into account relevant information available, including that from Local Healthwatch.

Local Healthwatch may also choose to refer a matter relating to social care services to the local authority, in which case the local authority must decide whether its review and scrutiny powers can and should be exercised in relation to the matter in question.

## **Public sector equality duty**

*Equality Act 2010: section 149*

The Equality Act 2010 prohibits unlawful discrimination in the provision of services on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These are known as protected characteristics. As well as these

prohibitions against unlawful discrimination, the Act requires public authorities to have due regard to the need to:

- eliminate discrimination that is unlawful under the Act;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This is known as the public sector equality duty. To effectively discharge the public sector equality duty it is often necessary to carry out equality impact assessments and consult and engage with individuals with protected characteristics.

## **Health and Wellbeing Boards**

*Local Government and Public Involvement in Health Act 2007: sections 116 and 116A*

*Health and Social Care Act 2012: Part 5, Chapter 2*

Health and Wellbeing Boards (HWBs) are established by local authorities and include a number of members from organisations with a stake in health and wellbeing in the area, including NHS England, CCGs, the local authority and Local Healthwatch. HWBs are under a duty to encourage integrated working in their local area.

The primary roles of HWBs are to work with local CCGs to:

- carry out assessments of needs in the local area (joint strategic needs assessments); and
- prepare a strategy for meeting such needs (joint health and wellbeing strategies).

In preparing such strategies, HWBs and CCGs must consider whether needs could be more effectively met through integrated arrangements between the NHS and local government, involve Local Healthwatch and involve people who live or work in the area.

HWBs may require information from their members, who must comply with such requests.

## **Commissioning plans**

CCGs are required to prepare commissioning plans. These must set out how CCGs propose to exercise their functions (including how the CCGs propose to discharge their duty to involve the public).

CCGs are required to consult the public when preparing or amending their commissioning plans.



A HWB may give NHS England its opinion on whether a CCG's commissioning plan takes proper account of the joint health and wellbeing strategy.

## Healthwatch

*Local Government and Public Involvement in Health Act 2007: Part 14.*

*Health and Social Care Act 2008: Part 1, Chapter 3*

*NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012: Part 6.*

Healthwatch was created with the purpose of understanding the needs, experiences and concerns of service users and to speak out on their behalf. Established through the Health and Social Care Act 2012, this created a model that operates both locally (Local Healthwatch) and nationally (Healthwatch England).

Local Healthwatch organisations carry out a range of activities in their local area, including:

- promoting and supporting the involvement of local people in the commissioning, provision and scrutiny of health and social care services;
- enabling local people to monitor and review the commissioning and provision of health and social care services;
- obtaining the views of local people about their needs for, and their experiences of, health and social care services;
- making such views known and making recommendations about how or whether health and social care services could or ought to be improved to those responsible for commissioning, providing, managing or scrutinising health and social care services and to Healthwatch England;
- providing advice and information about choice and access to health and social care services; and
- reaching views on the standard of health and social care service and whether, and how such services could or ought to be improved, and making those views known to Healthwatch England.

Bodies that are responsible for commissioning, providing, managing or scrutinising local care services must have regard to the views, reports or recommendations received from Local Healthwatch. They are also required to acknowledge and respond to such reports or recommendations. Such bodies would primarily include NHS England, CCGs, NHS foundation trusts, NHS trusts and local authorities in the area, as well as private providers of health and social care.

Healthwatch England provides general advice and assistance to Local Healthwatch organisations. It also has statutory powers to provide the Secretary of State, NHS England, NHS Improvement and local authorities with information and advice on:

- the views of people who use health or social care services and of other members of the public on their needs for and experiences of health and social care services; and

- the views of Local Healthwatch organisations and of individuals on the standard of health and social care services and whether or how it could or should be improved.

The bodies listed above are legally required to respond in writing to such advice from Healthwatch England.

## **Other governance arrangements and requirements**

All organisations should be conscious of and adhere to their own governance arrangements and the need to consult and/or seek approval from others in order to take decisions in relation to STPs. For example:

- some decisions may have been reserved or delegated, depending on the organisation's scheme of delegation, standing financial instructions and constitutions (as applicable) (for example, where a CCG has reserved certain types of decisions to its membership);
- some commissioning decisions may have been delegated to and exercised by a joint committee (for example, where NHS England has delegated decisions related to primary care to a CCG under "co-commissioning" or where CCGs have established a joint committee to jointly exercise their commissioning functions);
- some decisions by NHS foundation trusts need approval by their council of governors (for example, "significant transactions", where and as defined within the constitution);
- the legal requirement to hold meetings in public, except where it is permissible to exclude the public, for example:
  - for NHS England and NHS trusts, where publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons, as provided for by the Public Bodies (Admission to Meetings) Act 1960;
  - for CCGs, where it would not be in the public interest for the public to attend, as provided for in their constitution;
  - for NHS foundation trusts, where special reasons apply as provided for in their constitution.

## Annex B – Resources and support on involvement and consultation

- Centre for Public Scrutiny, [Smart Guide to Engagement: Working with Local Authority Scrutiny. This provides](#) a succinct and practical guide to working with local authority Scrutiny.
- Department of Health, [Real involvement: working with people to improve services](#) (2008). Despite being published before the changes made by the 2012 legislation, this sets out a helpful guide to what ‘involvement’ really means and why effective involvement is so important, including patients, staff, local authorities and voluntary sector partners.
- Department of Health, [Advice to local authorities on scrutinising health services](#) (2014). This explains the health scrutiny regulations and provides local authorities with advice about how to implement them to ensure that existing health services are providing effectively for local communities.
- Five Year Forward View People and Communities Board, [Six principles for engaging people and communities: definitions, evaluation and measurement](#) (June 2016). This helps to better understand and measure the impact of engaging with local people and communities.
- Independent Reconfiguration Panel, [IRP: Learning from reviews](#) (November 2014). This sets out practical advice based on referrals to the IRP.
- Local Government Association, [Integrating Community Engagement and Service Delivery - pointers to good practice](#) (September 2010). This guide aims to help local authorities ensure that the results of community engagement processes are built into their service plans and the ways that they deliver services.
- Local Government Association, Association of Directors of Adult Social Services, Society of Local Authority Chief Executives, Centre for Public Scrutiny, Association of Directors of Public Health, [Shared principles for redesigning the local health and care landscape](#) (October 2015). This provides system leaders with key principles for ensuring that service change proposals are focused on improving services and improving outcomes.
- Local Government Association, Centre for Public Scrutiny, [Piecing it Together: Effective Scrutiny of Health and Social Care Integration](#) (May 2015). This provides a summary of key lessons and messages from scrutiny inquiry days held in three areas to assess the current role of scrutiny in the development of local plans for integration and how this can be improved in the future.
- NHS Confederation, NHS Clinical Commissioners, NHS Providers and the Local Government Association, [New Care Models and Staff Engagement: All Aboard](#) (June 2016). This contains four case studies that examine the ongoing work of NHS and local government organisations that are ensuring staff are at the heart of all decisions about new models of care in local areas.

- NHS England, [Transforming Participation in Health and Care](#) (2013). For general advice on involvement principles and approaches and helps CCGs and other commissioners of health and care services to involve: patients and carers in decisions relating to care and treatment; and the public in commissioning processes and decisions.
- NHS England, [Planning, assuring and delivering service change for patients](#) (November 2015). This is a good practice guide for commissioners on the NHS England assurance process for major service changes and reconfigurations.
- NHS England, [Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning](#) (November 2015). This provides a helpful guide to NHS England's own public involvement legal duty which may also be of interest to others (including the ways in which the public can be involved and the guiding principles about fair and proportionate involvement).
- NHS Improvement, [Communications and engagement toolkit: for teams in service change programmes](#) (June 2016). This is a step-by-step guide to the different phases of a potential service change programme and the role of communications and engagement.
- National Institute of Health and Care Excellence, [Community Engagement: improving health and wellbeing and reducing health inequalities, NICE Guidelines NG44](#) (March 2016). This covers community engagement approaches to reduce health inequalities, ensure health and wellbeing initiatives are effective and help local authorities and health bodies meet their statutory obligations.
- New Care Models, [New Care Models: empowering patients and communities](#) (December 2015). This sets out a directory of what support is available from the 5YFV partners and voluntary sector strategic partner organisations to fully engage with people and communities.
- Scottish Health Council, [The Participation Toolkit](#) (2014). This was compiled to support NHS staff to involve patients, carers and members of the public in their own care and in the design and delivery of local services, and is particularly useful on different involvement approaches.

Please contact your regional Head of Communications within NHS England for further support or advice.



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