# HEALTH AND ADULT CARE SCRUTINY COMMITTEE

## Minutes of the meeting of the Health and Adult Care Scrutiny Committee held on 12th August 2013 in Meeting Room 3, Darby House, Lawn Central, TF3 4JA

**PRESENT:**
Councillors D. White (Chair), F. Bold , R. Evans V. Fletcher , J. Greenaway, A. Meredith, J. Minor, Co-optees R. Shaw, J. Gulliver, D. Davies and R. Perkins.

Also Present**:** Cllr. A. England, Cabinet Member Adult Social Care, P. Taylor ( Interim Director Adult Care, Heath and Wellbeing), K. Kalinowski (Assistant Director Care and Support), C. Heaven (Shropshire and Telford and Wrekin Age UK) and F. Bottrill (Scrutiny Group Specialist)

### HACSC-50 MINUTES

**RESOLVED - The minutes of the previous meetings of the Health and Adult Care Scrutiny Committee held on 3rd May 2013 be agreed as an accurate reflection of the meetings and signed by the Chairman subject to the deletion of 'to' page 3, paragraph 11, line 3.**

### HACSC-51 APOLOGIES FOR ABSENCE

None

### HACSC-52 DECLARATIONS OF INTEREST

Cllr. R. Evans declared her employment in a social care provider organisation that has contracts with the Local Authority.

### HACSC-53 RESPONSE TO THE SCRUTINY REVIEW OF CONTINUING HEALTHCARE

The Chair invited Cllr. A. England, Cabinet Member for Adult Social Care, to give a verbal response to the Scrutiny Committee's report on Continuing Healthcare (CHC).

Cllr. England made some initial comments on the report setting out the reduction in the level of CHC funding and the impact that this has had on the Local Authority's Adult Care budget. He noted the approach that the Scrutiny Committee had taken in looking

at the quality of the assessment process. He highlighted the findings of the report that set out that the local interpretation of the assessment process was unfair and that in some cases care provision was not meeting the needs of individuals. He commented that he would like further evidence of this. He also commented on the finding of the Committee that it would be impossible to produce a single document that would explain to patients and their families what care the patient being assessed would need and how this related to CHC funding. Cllr. England said that this reflects the complexity of the system. He added that the assessment process has to be fair and it should not be based on patients who 'shout the loudest' getting the most support.

Cllr. England commented on the findings of the Committee that the Council is not meeting the full cost of people's needs. He responded that private Care Homes make a profit but he recognised that there are not-for-profit care home providers. He was glad that the report identified the implication for the Adult Social Care Budget which has resulted in additional costs of £8 million. If this continued there is a risk that the threshold for eligibility for local authority funded care could be raised to critical.

The Chair requested that the Cabinet Member respond to the recommendations in the report. He added that the Committee also had concerns regarding people who are self funding and the appeals process. C. Heaven confirmed that the appeals they had supported over the last 3 years had not been successful and that a patient who appealed last month was still waiting to hear. Cllr. England responded that he wanted to ensure that the Committee understood the difficult issues and the Interim Director for Adult Care, Health and Wellbeing suggested he could update the Committee on the work that has been undertaken with the Clinical Commissioning Group.

Cllr. England provided the following response to the recommendations in the Scrutiny Report:

Recommendation 1
The CCG put systems in place to ensure that all patients and their families are appropriately involved in the assessment process. The CCG must ensure that the assessment is patient centred and that the assessment is carried out in a caring and compassionate manner in line with the Francis Report.

CCG to respond to this recommendation

Recommendation 2
All patients who are assessed using the Initial Check List and their families should be given written information about independent advice and advocacy services with specialist knowledge of CHC BEFORE the checklist is initiated. The information should provide the contact details for the advocacy services

CCG to respond to this recommendation

Recommendation 3
This advocacy service must be adequately resourced to respond in a timely manner and provide the necessary support to individuals and their families throughout the CHC process. The Committee recommend that the CCG contribute toward the cost of this service in line with the National Framework Practice Guidance ( p.98)

Accepted: The Council currently funds advocacy services and patients and their families going through the CHC process can access these. The issue of advocacy services for CHC was discussed at the CHC workshop on 20 June with the CCG and this has been built into the follow up action plan. This will be carried out jointly with the CCG

Recommendation 4
The Multi-disciplinary working can only be delivered through a successful partnership approach both at organisational level and practitioner level where all the people involved in the care of an individual feel that their views are valued. The views of all professionals in the MDT must be evidenced in the decision making process.

Accepted: The Local Authority would like to work with the CCG towards a more integrated assessment approach. A joint Steering Group is being set up (first meeting in September) and will take forward an action plan following the joint externally facilitated workshop on 20 June.

Recommendation 5
All the organisations involved in the care of an individual being assessed for CHC must be included in the Personal Details section of the DST (p. 53 of the draft Operational Arrangement Document). All these organisations must be contacted to provide evidence for the assessment including mental health services.

CCG to respond to this recommendation

Recommendation 6
Joint training is undertaken (including role play) ensuring that all professionals from the different organisations involved in CHC understand the full implications of the decisions that are made from the perspective of the patient, their colleagues from other organisations and the implications for wider health and social care economy.

Accepted: The Local Authority CHC Team Leader has and continues to carry out training for LA staff to raise awareness of CHC following the recent revision of the

framework. Training has also been undertaken with Care Homes in partnership with SPIC. There is also a commitment for follow up joint training as discussed at workshop as part of the action plan

Recommendation 7

Domiciliary care providers and their care staff are involved in this training so that they can engage in the CHC process to contact the relevant professionals to request and contribute to a check list and contribute towards the Full Assessment.

Accepted; This is included in the training as set out above. It is hoped in future training will be delivered jointly with the CCG

Recommendation 8

The CCG record and monitor the number of people who have an Initial Check List and the outcome of this i.e. how many of these are referred for a Full Assessment.

Accepted :The CCG have responded that this information is collated in a database which is already in place. The Local Authority is looking to see what information it can record on Care First, our client record system, but this would only include people known to us and not self funders .

Recommendation 9
All staff who carry out the Initial Check List must be appropriately qualified professionals and have had training on how to carry out the assessment, what information to provide to patients and their families and how to promote the advocacy support that is available. The information provided to patients should include health care and financial implications for patients and their families in the event of the range of outcomes of the assessment process.

CCG to respond to this recommendation

Recommendation 10

The CCG should work with the Hospital Trust to review the Integrated Health Assessment Form which incorporates the CHC Checklist to ensure that all information is clinically appropriate – of specific concern is the current instruction that patients who have not had previous cognitive impairment and have suffered a stroke must not be referred to mental health services.

CCG to respond to this recommendation

Recommendation 11
That as part of the agreement of the Operational Arrangements document the CCG, Local Authority and other partners agree to a local protocol on the interpretation of the revised Decision Support Tool guidance on the eligibility of patients who do not have a Priority Need but do have needs that meet indicative guidance set out on p.14 and 15 of the revised guidance.

Partially Accepted: The Local Authority has agreed with the CCG to work to the national guidance in establishing a primary health need. Therefore a local protocol should not be necessary as the detail is sufficient in the national guidance. Processes for local implication are being agreed e.g. Disputes Process. The Local Authority is committed to working with the CCG to provide the assurance to the Scrutiny Committee that the Indicative Guidance is being implemented appropriately.

Recommendation 12
The CCG should work with partner organisations including the Local Authority, SPIC, the Community Health Trust, the Hospital Trust, Age UK and other advocacy services to establish a panel that will consider the MDT assessment and make recommendations to the CCG regarding CHC eligibility. The terms of reference and operation of the panel should be reviewed annually to ensure that it is adding value to the process.

CCG to respond to this recommendation

Recommendation 13
The CCG and Local Authority work together to agree a dispute process as set out in the National Framework (p. 136) and jointly monitor the number and outcome of the assessments disputed by the Local Authority

Accepted : This recommendation has already been agreed and implemented.

Recommendation 14
As part of the Operational Arrangements document the CCG must include information on the re-assessment process. This must include a local policy on the interpretation of the principle of well managed needs as set out in the 2012 Department of Health Framework (p. 61) agreed by the CCG, Local Authority, Community Health Trust, SaTH, SPIC and the local advocacy services.

Partially Accepted: The Local Authority has agreed with the CCG to work to the national guidance in establishing the well managed need. Therefore a local protocol is not necessary. The Local Authority will work with the CCG to seek evidence that the National Guidance on well managed need is being implemented appropriately.

Recommendation 15
The CCG records and monitors the number of appeals / review and their outcomes.

CCG to respond to this recommendation

Recommendation 16
All patients and their family / representatives should be offered independent advice and advocacy before and during the appeal / review process. Patients should also be made aware of independent legal advice available e.g. free 15 minute appointments with a solicitor through Age UK and other specialist legal advice.

CCG to respond to this recommendation

Recommendation 17
The CCG ensures that it is adhering to the Framework when the patient or their family dispute the outcome of a re-assessment where funding is withdrawn.

CCG to respond to this recommendation

Recommendation 18
The Membership of the appeal panel should reflect the good practice established by the regional appeal panel (previously at the SHA) which included an independent chair. All communication from the Panel should come from the independent Chair.

CCG to respond to this recommendation

Recommendation 19
The Committee has not made any specific recommendations regarding the level of CHC funding as the funding inequality is a product of the failings in the CHC assessment process.

CCG to respond to this recommendation

Recommendation 20
The CCG and Local Authority work together to explore the option of Joint Funding Packages for patients who are not eligible for CHC in line with the National Framework.

Accepted: This has been agreed with the CCG and an initial meeting to establish appropriate policies and procedures was held in July.

Recommendation 21
The Committee does however recommend that the number of CHC cases, the level of funding and the number of jointly funded care packages made following a CHC assessment and the total funding contributions by partner organisations is reported quarterly to the Health and Wellbeing Board.

Accepted: The Local Authority will work with the CCG to bring this information to the Health and Wellbeing Board.

Recommendation 22
The Local Authority should ensure that any staff who report bullying or harassment are appropriately supported – this should include policies and procedures to cover partnership arrangements.

Accepted: The Local Authority has put in place training for staff so that they understand more fully their roles and responsibilities when representing the needs of their client at an MDT meeting.

The CHC Team leader also provides support in specific cases.

The dispute process is in place and staff are informed how they can use this.

The Council does have policies and procedures to support staff who are feeling stress as a result of bullying and harassment though a range of mechanisms.

Further discussion with People Services around procedures to raise issues with partner organisations.

Councillor England asked for clarification of the comments made in the Scrutiny Report in relation to bullying. Paul Taylor stated that at no time had any staff formally raised concerns in relation to bullying or such allegations.

Recommendation 23
In line with the Framework (p. 21) should the Initial Check List or full assessment identify a carer they should be informed of their right to a carer's assessment and advised to contact the Local Authority or, with their permission, refer them for this purpose.

Accepted: The Local Authority, as a matter of course, will inform a carer of their right to an assessment.

The Local Authority are committed to working with partner organisations to ensure this happens through out the assessment process.

Recommendation 24
Further work is carried out to clarify the number of patients assessed as eligible for CHC funding and receiving CHC funding and the age profile of people receiving CHC funding.

Recommendation 25
The Operational Procedure Document that was presented to the Scrutiny Committee is an opportunity for the CCG to have genuine dialogue with partner organisations. The Committee recommend that the concerns expressed by the local authority regarding this document are taken into account and that SPIC and Age UK and other advocacy organisations are also given the opportunity to comment on the Operational Procedures for CHC.

Reject
The Local Authority has agreed with the CCG to work to the national guidance as it is sufficiently detailed to be adhered to without the need for local guidance. Local processes are being agreed. The Local Authority will work with other organisations to monitor whether National Guidance is being implemented appropriately.

The Chair asked the K. Kalinowski, Assistant Director for Care and Support if she had anything to add.

K. Kalinowski responded that a Joint Workshop had taken place on the 20th June, facilitated by the Department of Health CHC Lead and the Association of Directors of Adult Services CHC Lead. The draft action plan is being drawn up and can be shared with Scrutiny. A Joint Group will oversee the implementation of this action plan and joint training will be essential. Within the Local Authority we have carried out training

for our staff and it is hoped that this will be done jointly in the future. The Joint steering Group has been established and will meet in September. This will be jointly chaired by the Assistant Director for Adult Services and the CCG's Executive Nurse Lead for Quality and Safety.

The Interim Director for Adult Care, Health and Wellbeing, added that there are discussions with the Chief Operating Officer and Chair of the CCG regarding the ongoing transfer of funds. It had been acknowledged that the Council had previously not been funding enough and after the rate of CHC funding had reduced the PCT had recognised the financial pressures this created for the Local Authority and had transferred funds. The CCG has agreed to passport £2.4 million funds to benefit the council. He recognised that the issues for patients and service users are different since NHS care is free at the point of delivery while the Local Authority does not fund care for people with over around £23k disposable capital. For 2012/13 the cost for self funders was £2.4 million. The CCG have continued to recognise the need to passport money to the Local Authority in 2014 but there needs to be further discussion regarding the number of people in the CHC system – the CCG and Local Authority have different views on this. We need to have an open dialogue about this and the impact if decisions regarding CHC.

The Chair commented that the CHC Guidance issued by the Department of Health in 2012 was much clearer. He added that the issue with the CCG transferring one-off funds was that this could change in the future. The Committee want to see the National Guidance implemented correctly. The guidance is open to local interpretation and the Committee concluded that it was not being interpreted fairly. If there is a primary health need – there must be a fair assessment and the care must be funded by the NHS. The Committee want the Council and CCG to work together to resolve this.

The Interim Director for Adult Care, Health and Wellbeing added that there has been agreement to adhere to the National framework. There has been disagreement in the past but we have agreed to work together in the future and there will need to be some compromise on both sides. We need to be clear what the processes are and it was recognised that it can be difficult for people to be clear what is the roles of the NHS and Local Authority social care.

The Chair responded that there has to be a fair system and that this should include jointly funded packages of care.

The Assistant Director for Care and Support agreed that Joint Care packages should be a matter of routine. There was a meeting in early July to take this forward.

The Interim Director for Adult Care, Health and Wellbeing clarified that the legislation

is clear that if there is a primary health need the NHS meets the cost of health and social care needs. If a person is not eligible for CHC there may be other health needs that the NHS should meet above the Registered Nursing Care contribution. There is no national system for care in a non nursing home setting e.g. at home nursing input above and beyond district nursing.

The Chair commented on the specialist care provided by care staff in nursing homes e.g dementia care.

Cllr. England agreed that it is important to provide continuity of care.

Cllr. Minor asked if there was anything in the National Framework that can be used to refuse care? He added that the current position seems to be " them and us" and there is something wrong of Age UK have not won an appeal for 2 years.

The Interim Director for Adult Care, Health and Wellbeing responded that the CHC and Continuing Care legislation sets out who should fund the care, but neither legislation sets out the level of care – this has to be a judgement of need. There are difficulties for both organisations with their respective budgets.

The Chair said that there were a number of solicitors who were involved in challenging decisions and that this was something the Committee were very concerned about.

Cllr. Fletcher said that the Committee had not got information on the specifics on the different levels of funding and how this is decided.

The Interim Director for Adult Care, Health and Wellbeing responded that he can provide the numbers for continuing healthcare and continuing care.

These figures were confirmed following the meeting. The national figures for 2013/14 quarters have not been released yet.

- Continuing Healthcare (funded by T&W CCG): 56 people (as at 3 March 2013), equivalent to 15 per 50,000 head of population, compared to England average of 52 per 50,000 and Shropshire CCG 64 per 50,000 of their population
- Continuing Community Care (funded by T&W Council): 2060 people (as at July 2013)

It was recognised that we need to do more work with the CCG to agree the number of people who should be in the CHC system. National Figures show that we should be nearer 150.

J. Gulliver stressed the importance of dementia training in hospital. She had been in the hospital that morning and was told by a nurse that it was not happening.

The Interim Director for Adult Care, Health and Wellbeing highlighted that CHC does not apply to people in a hospital setting. When long stay hospitals closed more people were supported in the community.

The Chair added that it is important to recognise that people have different care needs and this includes religious requirements that should be provided in different settings.

The Interim Director for Adult Care, Health and Wellbeing responded that the legislation determines the funding responsibility – but the level of care is determined within the budget.

R. Shaw commented that the Department of Health Framework Guidance for CHC was better.

The Chair asked if the CCG representative would like to comment on their response. This was declined as she was attending as a member of the public.

Cllr. Fletcher said she was concerned that the CCG response says that the Scrutiny Committee had been biased. She confirmed that in her view the Committee has looked at this issue objectively.

The Chair said the Committee had identified that there had been a change in the level of funding – something had changes. The evidence presented to the Committee showed that the assessment process was unfair. The Committee did not have a set aim for this review.

Cllr. Fletcher said that she had met someone recently who did not know about CHC and was funding his own care.

R. Perkins said the Committee were looking for a balanced approach. The Committee had heard that people were not given the opportunity to contribute to the assessment.

Cllr Minor said that it is important to consult people. With information technology it is possible for people to get together through facebook, twitter. He gave the example of Stafford Hospital where local campaigns have made a difference.

The Chair said that we have a good relationship with the NHS. The NHS is in a process of change and the Committee has called the Local Authority and NHS to work together. The Chair said he was sure that they will work together to resolve this.

The Assistant Director of Adult Care, Health and Wellbeing said that there is a lot of good joint working between the Local Authority and CCG. This has been recognised by the Peer Challenge that has recently been carried out. People who are not receiving CHC are continuing to receive care funded by the Local Authority unless they are self funding. It is our view that very few people are not receiving the care they need. CHC impacts on our budget and the Local Authority will get to the point where we can't fund everyone so we do not bankrupt the Council.

Cllr. England said that the Council must work with the CCG and the Health and Wellbeing Board has a role in bringing health and social care together. He saw this as very positive and as an Elected Members his role is to question and challenge.

The Chair said that he had been involved in Scrutiny for a long time and that the Council is very lucky to have this CCG in Telford and Wrekin. The Council and Local Authority must continue to work together and Scrutiny will continue to ask questions.

The Scrutiny Group Specialist said that the responses to the Scrutiny report discussed at this meeting were initial responses from both organisations. A formal joint response has been requested from the Health and Wellbeing Board and this will be submitted to the Committee following the Health and Wellbeing Board meeting in September.

Cllr. England asked who will be presenting the response from the Health and Wellbeing Board?

The Interim Director for Adult Care, Health and Wellbeing responded that he has been tasked to work with the Chief Operating Officer of the CCG to bring a joint response to the Health and Wellbeing Board. It is also important to make sure that the voice for self funders is being heard. He explained that the Care and Support Bill, which is expected to take effect from 2015 will give Local Authorities responsibility for everyone in the care system – this does not mean that everyone will be funded. There will be a maximum amount that individuals will have to pay for their care.

The Cabinet Member for Adult Social Care, Interim Director for Adult Care, Health and Wellbeing and the Assistant Director, Care and Support left the meeting.

The Committee confirmed the views expressed by the Chair regarding the CHC report.

Cllr. Fletcher commented that the CCG response stated that legal advice had been sought. She asked if the Scrutiny Committee should seek legal advice?

The Chair responded that it would not be necessary.

## HACSC-54 SHROPSHIRE AND TELFORD AND WREKIN SAFEGUARDING ADULTS BOARD ANNUAL REPORT 2012/13

The Chair informed the Committee that this item had been deferred to the next meeting.

## HAC SC- 55 HEALTH AND ADULT CARE SCRUTINY COMMITTEE WORK PROGRAMME

The Scrutiny Group Specialist outlined the work programme for the Scrutiny Committee.

Review of the Meals on Wheels / Community Meals Service
The meeting with the RVS volunteers had taken place and interviews with service users will be arranged.

Autism Strategy – it was agreed that a report on the autism strategy should come to the Committee in October

Mental Health – The Joint HOSC has decided to look at the provision of Mental health services. The South Staffordshire and Shropshire Healthcare Foundation Trust will be invited to the September meeting of the Joint HOSC.

Transfer of Public Health – the new Director of Public Health has been appointed and will be invited to future meeting of the Committee.

It was reported that the capacity of the Scrutiny Group Specialist to support this work will be affected by the work load of the Joint HOSC.

Cllr. Fletcher suggested that the Committee should scrutinise the cost of the new hospital at Ludlow and how this is being funded.

The Chair responded that this will be incorporated in the work of the Joint HOSC.

## HAC SC- 56 CHAIR'S UPDATE

The Chair updated the Committee on the work of the Joint Health Overview and Scrutiny Committee with Shropshire Council and the outcome of the meeting held on the 8th August 2012. The Chair reported that he and the Shropshire Chair of this Committee has held meetings with the Hospital Trust, CCGs and NHS England Area

Team regarding the concerns about services at the Princess Royal Hospital and the Royal Shrewsbury Hospital. The Trust faces a number of issues:

- Low patient satisfaction
- Capacity issues at SaTH
- Ability of Trust to meet targets
- Concerns about sustainability of A&E services
- Staff survey – low morale and difficulty recruiting in key areas
- Financial issues resulting from requirement to make efficiency savings and duplication of services across both sites.

These issues are in the public domain and there are discussions taking place but as Chairs of the Joint HOSC they were concerned that no solutions for the longer term problems has been put forward. If these issues are not resolved important services may be lost by the Trust or it could be taken over. It important that the discussion about the future of hospital services is debated in public. The Joint HOSC Chairs held a meeting with representatives from the Clinical Commissioning Groups, Shrewsbury and Telford Hospital NHs Trust, Community HealthTrust, both Local Authority Cabinet Members for Adult Services and Chairs of the Health and Wellbeing Boards and the NHs England Area Team. At this meeting the Chairs expressed their concern and set out their expectations for the Joint HOSC meeting on the 8th August. The NHS organisations attended this meeting and set out the issues that the health organisations face and the need for change. The Hospital Trust was open about the problems they face. The Joint HOSC recognised that the services are not sustainable as their are currently configured. This has started the debate about the future of services, including A&E and the Joint HOSC recognised that all options must be considered. As far as he was aware, this is the first time that a Joint HOSC has taken this proactive approach to start a public debate about hospital services and there is no guarantee what the outcome of this process will be. The local NHS organisations have been asked to plan the public consultation. The role of the Joint HOSC is not to develop the solutions but to ask the questions. The Chair explained that it had not been possible in the timescales to update this Committee before now. He asked if the Committee support the approach taken by the Joint HOSC Chairs and the work undertaken by the Joint HOSC.

J. Gulliver commented that one issue that need to be addressed is that Walk in centres are referring patients to A&E

R. Perkins commented that access to GP is an issue and if people cannot get an appointment they will go to A&E.

The Chair said that doctors in Primary Care should perform minor surgery rather than

referring to A&E.

R. Perkins said it is important to educate the general population about how to use the NHS.

Cllr. Minor congratulated the Chair on the work the Joint HOSC Chairs had undertaken.

The Chair said that the Joint HOSC recognised that services need to be consolidated. As Chair he will not allow the discussions at the Joint HOSC to become politicised. Some people will have to travel further to get the best service – but it is not acceptable that the current situation where there are two understaffed and disorganised hospitals. The Joint HOSC has started this process and at the meeting on the 8th August it was set out that any decisions about the future reconfiguration of services will be made within 12 months.

Cllr. Fletcher commented on the need to locate children's services with other specialities.

Cllr. Greenaway said that it is important to look at the bigger picture if there is a risk of losing services. She asked who will manage the consultation and how this information will be recorded.

The Scrutiny Group Specialist responded that it is usually the Commissioners who are responsible for managing the consultation on changes to NHS reconfigurations.

The Chair added that the consultation will not be restricted to hospital services but will include community hospitals as well. All health professionals, the CCGs and the Health and Wellbeing Boards will have to be involved.

Cllr. Greenaway said that any consultation will involve a lot of responses which will include anecdotal evidence. This is an important part of the consultation.

Cllr. Fletcher said that the option to build a new hospital had been discussed in the media.

The Chair said that this was unlikely given the funding that would be required – but at this stage nothing should be ruled out.

The Scrutiny Group Specialist said that the Joint HOSC had responded to the recommendations of the Francis Report and was being proactive in addressing concerns about local services.

R. Perkins supported the work of the Joint HOSC and the timescales discussed.

The Committee supported the work of the Joint HOSC and the Joint HOSC Chairmen.

The Meeting ended at 17.33pm

**Chairman: .....**

**Date: .....**