CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

11 JULY 2013

REPORT OF DIRECTOR OF LAW AND DEMOCRACY

CABINET DECISION

Adult Services and Health – Lead Cabinet Member – **Councillor Jim Beall**

ADULT SERVICES AND HEALTH SCRUTINY – REVISED APPROACH TO MONITORING QUALITY (INCLUDING RESPONSE TO THE FRANCIS INQUIRY)

1. Summary

The arrangements for quality assurance, and specifically the role of the Adult Services and Health (ASH) Select Committee, have been reviewed in light of public concern, national guidance and inquiries, and the impact of the health reforms. This report summarises work to date and outlines areas for improvement. It also includes the response of the health scrutiny function to the relevant recommendations of the Francis Inquiry into the failures of care at Mid-Staffordshire NHS Foundation Trust.

2. Recommendations

Cabinet are recommended to note and endorse the revised approach to monitoring the quality of local services as outlined at Appendix 1, including the response of the health scrutiny function in relation to the relevant recommendations of the Francis Inquiry.

3. Reasons for the Recommendations/Decision(s)

To provide Cabinet with an overview of a revised approach to quality assurance for local health and care services, including the response to relevant recommendations of the Francis Inquiry.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code**.**

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then**, in accordance with paragraph 18** of the code, consider whether that interest is one

which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or

- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise **(paragraph 19** of the code**)**

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code**.**

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code).

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SUMMARY

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RECOMMENDATIONS

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DETAIL

1. The closely linked issues of dignity, quality of care and protection from abuse in adult and health services have been regularly in the spotlight in recent years. Nationally, there have been a number of developments including high profile public cases that have highlighted major failures to provide basic care, some cases of abuse, and concerns about the potential impact of efficiency targets on the quality of care. There is a renewed emphasis on outcomes and the quality of care in the commissioning of services, and safeguarding of vulnerable adults has become increasingly important.

2. In addition, there has been considerable change in the health sector involving changes associated with the recent NHS reforms and increased local authority involvement in the planning of health services. The independent role of scrutiny provides an opportunity to add value to these new arrangements by providing an added level of challenge and assurance.

National cases

3. A number of high profile cases have brought some of these issues into sharper focus and there is a need to learn from their outcomes. The situation at Mid Staffordshire NHS Foundation Trust has been the subject of two major inquiries. The second and most recent Public Inquiry (the 'Francis Inquiry') concentrated on the role of the commissioning, supervisory, and regulatory regime overseeing Mid-Staffs Trust. This reported in February 2013. The Francis Inquiry looked at the role of overview

and scrutiny committees (OSCs) in more detail and made recommendations, after taking evidence including from Stafford and Staffordshire Councils.

4. Members will also be aware of the Winterbourne View scandal, which prompted a national review by the Care Quality Commission (CQC), and there have been concerns about the quality of home care, which also prompted a national review.

5. These are examples of where care has failed and the large scale national response that followed. Within this context, the challenge is to ensure that locally there are processes in place to monitor quality and safety to achieve a high level of assurance for Members.

Local Response

6. As well as responding to the specific recommendations from the Francis Report, there is scope for general improvement and increased clarity of responsibility locally, both in terms of how health scrutiny operates in and outside of the Council, and in conjunction with new partners in the health system.

7. The wider context for suggested improvements is the increased powers for health scrutiny, particularly its ability to require attendance at committee from any provider of NHS funded services (public sector or otherwise), and the need to make best use of an independent scrutiny function that is complementary to the new bodies set up as part of NHS reform, but which is proportionate in its actions.

8. Stockton's Health Scrutiny function has established a good working relationship with local health commissioners and providers, and this will provide a sound platform for future work.

Francis Report Recommendations

9. The Francis Report makes a number of recommendations aimed directly at health scrutiny functions, together with a number of other recommendations for other bodies which also have relevance. The Report focuses its criticism on the lack of a caring culture within the Trust, the focus on financial matters to the detriment of ensuring patient safety and quality services, and the failure of the regulatory and oversight system as a whole.

10. The Francis Report discusses the clarity of roles between the District and County councils, role of other partner agencies including LINk (nb. this role has been since been superseded by HealthWatch), quality and frequency of questioning at Committee, the sources of information used, and the ability or otherwise to query the messages put forward by senior Trust management. When discussing the role of the local scrutiny committee(s) and the balance of their work programme, the Inquiry Chairman suggested that the distinction between 'operational' and 'strategic' matters is essentially a false one, when all that really matters is the outcomes for patients.

11. Although a relatively small part of this system of oversight and not a formal regulator, the view expressed was that it was reasonable to expect the local scrutiny committee(s) to have undertaken more of a challenging approach to local services. The nature of scrutiny at both Councils differed but in general, Councillors were criticised for accepting what they were told at Committee by senior Trust staff at face value, not investigating the high mortality figures in more depth, and not being more in tune with the concerns of local residents.

12. The challenge for all Authorities is to ensure that scrutiny is effective, contributing to the oversight of quality issues and adding value in the new NHS system.

13. The first recommendation of the Inquiry is that '**all commissioning, service provision, regulatory and ancillary organisations in healthcare should consider the findings and recommendations of this report and decide how to apply them to their own work'**. The report recommends that each organisation outlines its response and reports on its progress on a regular basis.

14. A number of recommendations have a direct impact on the health scrutiny arena and these are:

No.	Francis Report Recommendation
47	The Care Quality Commission should expand its work with overview and scrutiny committees and foundation trust governors as a valuable information source. For example, it should further develop its current 'sounding board events'.
119	Overview and scrutiny committees and Local HealthWatch should have access to detailed information about complaints, although respect needs to be paid in this instance to the requirement of patient confidentiality.
147	Guidance should be given to promote the coordination between Local HealthWatch, Health and Wellbeing Boards, and local government scrutiny committees.
149	Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.
150	Scrutiny committees should have powers to inspect providers, rather than relying on local patient involvement structures to carry out this role, or should actively work with those structures to trigger and follow up inspections where appropriate, rather than receiving reports without comment or suggestions for action.
246	Department of Health/the NHS Commissioning Board/regulators should ensure that provider organisations publish in their annual quality accounts information in a common form to enable comparisons to be made between organisations, to include a minimum of prescribed information about their compliance with fundamental and other standards, their proposals for the rectification of any non-compliance and statistics on mortality and other outcomes. Quality accounts should be required to contain the observations of commissioners, overview and scrutiny committees, and Local HealthWatch.

15. There are also a number of other related recommendations and comments relating to patient and public involvement in health services, the monitoring of data, communication between bodies and with the public, the introduction of fundamental

standards of basic care, and the duty of all in healthcare organisations to be truthful when providing information to regulators and commissioners.

What we do now and proposed improvements

16. In relation to the NHS, work to date has focussed on North Tees and Hartlepool NHS Foundation Trust as the main provider of acute hospital and community services in the area. However future work will need to take account of the increasing range of providers, and to continue to take into account the scrutiny of NHS Trusts that span several local authority boundaries.

17. Existing oversight is mainly undertaken by Adult Services and Health Select Committee (ASH). ASH Committee's work programme as with all scrutiny committees at Stockton is mainly based around undertaking in-depth topic based reviews, however in addition the ASH Committee undertake a number of additional roles in relation to health scrutiny, based on statutory duties, good practice, and evolving policy.

18. This report, and the Francis recommendations, focuses on health services, however consideration has also been given to increasing the oversight of adult care services, and it is proposed that a range of performance reports will be considered.

19. **Appendix 1** sets out current good practice that will be maintained, and some areas for development. Relevant Francis Recommendations are highlighted where appropriate.

FINANCIAL IMPLICATIONS

20. There are no specific financial implications associated with this report.

LEGAL IMPLICATIONS

21. The powers and duties in relation to the operation of health scrutiny are outlined in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Associated statutory guidance is being developed by the Department of Health.

RISK ASSESSMENT

22. This report on a Revised Approach to Monitoring Quality (Including Response to the Francis Inquiry) and associated actions is categorised as low to medium risk. Existing approaches will be strengthened where necessary.

23. A failure to undertake a response to the Francis Report recommendations and to continue to focus on quality issues, would potentially expose the Council and partners to increased risk in relation to provision of poor quality of services, oversight of such services, and reputation.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

24. This report is relevant to the Healthier Communities and Adults theme and Older Adults supporting theme of the Community Strategy.

EQUALITIES IMPACT ASSESSMENT

25. An Equalities Impact Assessment (EIA) has not been developed as the report relates to the further development of the scrutiny function that has already been subject to an EIA.

CONSULTATION INCLUDING WARD/COUNCILLORS

26. The approach to monitoring quality and improving quality assurance is being developed in conjunction with relevant senior SBC officers, and NHS representatives. Executive Scrutiny Committee, and Adult Services and Health Select Committee have reviewed current practices in more detail (reports available for the meetings of 2 and 9 July 2013 respectively).

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Education related?

No

Background Papers

None

Ward Councillors

Not ward specific

Property

There are no specific property implications

Appendix 1

ASH Select Committee - Revised approach to monitoring quality

1. Co-ordination between Health and Wellbeing Board (HWB), HealthWatch Stockton, and Health Scrutiny (Francis Recommendation 147)	
Maintain	The joined up and partnership approach already established in Stockton; continue to engage closely with HealthWatch; continue to undertake in-depth reviews (potentially at the request of the HWB) on issues of local priority.
Improve	Ensure there is clarity of roles through the development of local guidance where appropriate and close working relationships with new contacts and organisations (eg. CCG, HWB, HealthWatch, North of England Commissioning Support).
2. Quality of information and support to scrutiny committee (Francis Recommendation 149)	
Maintain	Continue the flow of internal/external information; maintain the individual Member Training Needs analysis development; and ensure links with CMT / key officers are maintained.
Improve	Review health scrutiny training needs to enable members to more effectively challenge the information they are presented with; to improve and challenge the quality, range and ease of understanding of information provided to Committee; identify an appropriate method of being presented with information on the work of the relevant Quality Surveillance Group (QSG - a new sub-regional network set up to include CQC, commissioners, LAs, HealthWatch, to detect early signs of quality failure).
3. Complaints (Francis Recommendation 119)	
Improve	Ensure more detailed annual reports on complaints (including information on themes, service area, trends) are reported to ASH Select Committee. It is proposed that this takes place when the 6-monthly in-depth adult care performance reports are considered at ASH Committee (November) for Adult Services, and when the Quality Account is considered for NHS services (Trusts are mandated to publish Quality Accounts annually and they set out a review of quality performance and priorities for next year).
4. Quality Accounts (Francis Recommendation 246)	
Maintain	Continue working with HealthWatch when considering the Quality Account in order to benefit from the patient and carer viewpoint; always ensure that the draft Quality Account is provided at the relevant Committee meeting; and maintain the practice of always providing a comment to ensure SBC input into the priorities of the Trust.

Improve	Reinforce Member's awareness of ASH Committee's role and ensure all Members are aware of the opportunity to feedback to the Committee their views on the Trust in advance of the Quality Account being considered; request more detailed information particularly in relation to benchmarking and complaints.
5. Working with Care Quality Commission (Francis Recommendation 47)	
Maintain	Continue to provide copies of agendas, minutes, final reports following reviews of Adult Care/NHS services, and any comments submitted to Quality Accounts from ASH Select Committee, to the CQC; continue providing the weekly CQC inspection reports email alert to Committee/lead Members.
Improve	Circulate the weekly CQC inspection reports to all Members (including information on the Ward location of services where applicable); invite CQC local leads to ASH Select Committee on an annual basis to give an overview of their work (this could potentially be aligned with the report on the work of the relevant QSG); respond to any further engagement and proposals from the CQC itself following its new strategy and its response to Francis Report.
6. Local Inspection (Francis Recommendation 150)	
Maintain	Continue ongoing dialogue with HealthWatch; continue to circulate the CQC inspection reports and inform its work; maintain approach to Select Committee site visits when relevant to a review (whilst acknowledging that they are not formal inspections).
Improve	Consider requesting that HealthWatch Enter and View visits (mini-inspections) are undertaken on particular types of service locally to inform a particular type of work or respond to concerns; ensure that all Enter and View reports are considered by the Committee as an agenda item to allow HealthWatch to formally report on their activities (this may be on a themed basis depending on number of Enter and View reports produced).
7. Scrutiny of NHS services that cover more than one local authority area	
Maintain	Continue the close working relationships with partner councils and standing joint committees; continue to seek to ensure an issue is considered by the most appropriate health scrutiny committee; continue feeding back from regional and sub-regional committees to ASH Select Committee.
Improve	Formalise and clarify the arrangements for joint scrutiny (eg. ensuring quality reports from regional Trusts are considered at the appropriate committee). The operation of the Tees Valley Joint Committee has been reviewed to ensure it meets the resources available during Stockton's period of supporting it, including a formalised process of establishing the

	work programme of the Joint Committee including consultation with public health and NHS partners, including specific reference to quality issues.
8. Foundation Trust Governors	
Maintain	Ensure that Foundation Trust Governors appointed by Stockton Council continue to be members of Cabinet (to ensure clear lines of accountability).
Improve	Governors appointed by the Council should report back on their role, and this could be included in the annual overview meetings.
9. Adult Care	
Maintain	Continue the current process for monitoring agreed recommendations and receiving the annual overview of Adult Services, and the approach to circulating CQC reports (as outlined above).
Improve	Arrange for Stockton's Local Account to be reported to ASH Select Committee during its preparation (July), and the Quality Standards Framework in September; this will complement the in-depth adult social care 6-monthly performance reports due to be considered at ASH Committee, together with the more detailed summary of complaints as suggested above; ASH Committee to receive an overview of the Council's performance in relation to adults safeguarding (similar to what is already received at CYP Committee regarding children's) and this to take place in July.
10. Supporting Measures	
Maintain	The flexibility in ASH Committee work programme will be maintained in order to deal with any 'quality' issues that may arise.
Improve	Each agenda of ASH Select Committee will contain an item on 'Quality of Care', as an umbrella item for the consideration of matters proposed in the report. Discussions to take place with Legal and Procurement to consider including a requirement to attend scrutiny committees when requested, in contractual obligations for Council-commissioned health and social care service providers as a 'back-stop' to all other attempts to improve performance, and to match the similar duties on NHS providers. Review the style of minutes taken, with the aim of including more detail when taking evidence from witnesses (to respond to comments in the Francis Report).