

Southend-on-Sea Borough Council

Report of Corporate Director for Corporate Services
to

Health and Wellbeing Board

25th September 2013

Report prepared by:
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Agenda
Item No.

Board and Scrutiny Relationship A Part 1 Agenda Item

1. Purpose of Report

- 1.1 To provide a brief update to the Board on health scrutiny regulations, information on two protocols and the Board and Scrutiny relationship.

2. Recommendation

- 2.1 That the Board notes this update.

3. Update on health regulations

- 3.1 Health scrutiny powers are vested in upper tier local authorities. At Southend-on-Sea Borough Council, the People Scrutiny Committee discharges the health scrutiny function, as conferred by the *Health and Social Care Act 2012*.
- 3.2 New health scrutiny Regulations¹ were laid before Parliament on 8th February 2013 and came into force on 1st April 2013. Further information on the new Regulations is attached at **Appendix 1**.
- 3.3 The Department of Health has undertaken some consultation on draft statutory guidance to accompany the new Regulations, but the final guidance is still awaited.

4. Protocols

- 4.1 The People Scrutiny Committee has now agreed new local working protocols with the NHS Southend Clinical Commissioning Group and also Healthwatch Southend. These 2 protocols are available on the Council's website at <http://www.southend.gov.uk/downloads/download/82/scrutiny>
- 4.2 In terms of the working protocol between the Scrutiny Committee and the Board, this needs to be a concise framework outlining the complementary roles and responsibilities of health scrutiny and the Board i.e. the statutory responsibility on health bodies to consult health scrutiny on proposals for substantial developments or variations to the local health service, and the Boards' statutory responsibilities to deliver the Health & Wellbeing Strategy and the JSNA.

¹ The Local Authority (Public Health, Health & Wellbeing Boards and Health Scrutiny) Regulations 2013

4.3 A draft protocol has been drawn up but needs further review and consultation. It will however be brought to the Board as soon as possible once the statutory guidance has been received.

5. Corporate Implications

5.1 Contribution to Council's Vision and Critical Priorities – Becoming an excellent and high performing organisation.

5.2 Financial Implications – not at present.

5.3 Legal Implications – none.

5.4 People Implications – none.

5.5 Property Implications – none.

5.6 Consultation – as described in report.

5.7 Equalities Impact Assessment – none.

5.8 Risk Assessment – none.

6. Background Papers –

- Report to People Scrutiny Committee on 9th July 2013

7. Appendices

Appendix 1 Health scrutiny regulations – main points

New health scrutiny regulations

General:

- The scope of health scrutiny now includes non-NHS organisations which provide services when commissioned to do so by a Clinical Commissioning Group (CCG), the NHS Commissioning Board (NHSCB) or the local authority itself
- Local authorities may establish a health overview & scrutiny committee (HOSC) but are not obliged to do so. They may delegate their power of referral to an HOSC or a joint scrutiny arrangement, but not to a s101 Committee.
- Consultations with health scrutiny must be commissioner-led – although proposals can be developed by any NHS body or relevant health service provider
- Exemptions to the duties to consult, provide information and answer questions have been extended to include the health special administration (HAS) regime. These exemptions start when the HAS regime starts
- Matters outstanding as at 1st April should generally be concluded under the new regulations.

Timescales:

- Local authorities and the organisations which consult them on proposals for service change must publish timescales which set out when they will make key decisions i.e.
 - For the NHS, when it will decide which of the options it has developed for service change it intends to implement
 - For the local authority, when they will make a decision on whether to refer the proposal to Secretary of State, and subsequently when they intend to make that referral

Referrals:

- Regulations require local authorities and the consulting body to take reasonable steps to resolve outstanding concerns, before a referral can be made
- Referrals by local authorities must be evidenced.
- With regard to referrals made to him, Secretary of State may direct the NHSCB to resolve the matter in a particular way. The NHSCB may direct CCGs. Previous powers of direction were over the NHS body to whom the referral related.

Other:

- Local authorities must take account of relevant information provided by local Healthwatch, in place of a LINK
- Local authorities must form a joint scrutiny committee where a consulting body consults more than one LA on a proposal for service change. This is a technical change which brings the 2003 directions to local authorities within the regulations.