

AGENDA MANAGEMENT SHEET

Name of Committee Overview & Scrutiny Co-ordinating Group

Date of Committee 19th November 2008

Report Title Interim Report on the Role of Local Involvement Networks (LINKs) and Overview & Scrutiny Committees (OSCs) - 'Developing Protocols'

Summary The Local Government and Public Involvement Act 2007 received royal assent where the Patient and Public Involvements Forums were abolished and replaced by the Local Involvement Network (LINK). This report provides an update of these changes with information on the new regulations and the role of OSCs and LINK in relation to NHS & County Council services and the importance of understanding the role of the LINK and OSCs in developing protocols to promote good, effective working arrangements and avoid duplication of work. It will also provide information on how the LINK can influence key decisions and commissioning arrangements, not only for the NHS but social care services provided by the County Council.

For further information please contact:

Alwin McGibbon
Health Scrutiny Officer
Tel: 01926 412075
alwinmcgibbon@warwickshire.gov.uk

Michelle McHugh
Interim Overview & Scrutiny Manager
Tel: 01926 412144
michellemchugh@warwickshire.gov.uk

Would the recommended decision be contrary to the Budget and Policy Framework? No

Background papers None

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

Other Committees

Local Member(s)

Other Elected Members Cllr Richard Grant,

- Cabinet Member Cllr Bob Stevens,
- Chief Executive
- Legal Sarah Duxbury
- Finance
- Other Chief Officers David Carter, Graeme Betts, Marion Davis,
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION NO

SUGGESTED NEXT STEPS:

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

**Overview & Scrutiny Co-ordinating Group
19th November 2008.**

**Interim Report – The Role of Local Involvement Networks
(LINKs) and Overview & Scrutiny Committees in
‘Developing Protocols’**

Report of the Performance & Development Directorate

Recommendations

That Overview & Scrutiny Co-ordinating Group:

1. From 9.1 (a) & 9.1 (b) in the report, consider what arrangements/protocols that can be taken forward to jointly agree with LINK members and any other items which the group may want to address.
2. To nominate two representatives from the group to attend the LINKs Event in Butts Park Arena, Butts Road, Coventry on 4th December 2008.
3. Chairs & Spokes of OSCs to make arrangements to meet with Warwickshire LINK Officer and LINK members by end December 2008 or early January 2009 to discuss and agree protocol arrangements. Consider extending this invitation to include Portfolio Holders for Health & Social Care and lead commissioning officers from WCC and NHS Warwickshire.

1. Introduction

- 1.1 In Warwickshire the Host to set up the LINK was appointed shortly after 1st April 2008 and it was expected that the LINK would be fully operational by October 2008, but there has been a delay in this process. To become fully operational the LINK members do need to agree their governance arrangements and an event has been arranged for the 4th December 2008, in Coventry for LINKs members, representatives from NHS, Local Authorities and community groups to discuss the best way forward. It is hoped that LINKs will be fully operational soon after this event to be able to represent the views of local people, explain commissioning decisions and develop their work programme for the coming year.

- 1.2 Due to this delay it is not possible to fully agree the protocol arrangements with Warwickshire LINK at this stage. However, to enable the County Council, OSCs and those commissioning services to consider what arrangements/protocols they would like in place, this report provides information about LINKs and what is expected from the local authority. The NHS will be equally involved with LINKs as commissioners of services and the County Council should also consider protocols relating to any joint commissioning arrangements they may have with the NHS. This will hopefully ensure that OSCs, LINKs and service commissioners can work effectively for the benefit of Warwickshire residents.

2. Background

- 2.1 The legislation for governing Local Involvement Network (LINK) is contained in the Local Government and Public Involvement Act 2007 and Local Involvement Regulations 2008, which came into effect on 1st April 2008. A LINK has been set up in every area of England to help influence or change the way their local NHS and social care services are delivered. There is a LINK in every local authority area that has social services responsibilities.
- 2.2 LINKs are networks of local people (carers, service users, community leaders, etc) and community groups (charities, faith groups, residents' associations, youth councils, etc) funded by the Government and supported by independent organisations known as a Host to promote and support the involvement of people in the commissioning, provision and scrutiny of local health and social care services.

3. The Role of the LINK

- 3.1 The role of LINK will be to:

- Give everyone the opportunity to say what they think about their local health and social care services
- Give people an opportunity to monitor and check how services are planned and run
- Provide feedback on what people have said about services so that things can change for the better

- 3.2 LINKs will do this by:

- Making reports and recommendations to commissioners and get a reply within a set period of time
- Asking commissioners for information and get a reply within a set period of time
- Go into some types of health and social care premises to observe the nature and quality of services
- Look into specific areas of concern and make recommendations to the people that plan and run these services
- Refer issues to the local overview and scrutiny committees and receive a response

4. Code of Conduct - Enter & View Services

- 4.1 Authorised representatives of LINKs will be able to enter premises that Health and Social Care providers own or control (with some exceptions) to gather information by observing the nature and quality of services provided. These visits should be properly conducted and co-ordinated, and carried out as part of a constructive relationship between LINKs and organisations commissioning and/or providing health and social care services. The LINKs role is not to seek out faults with local services, but to consider the standard and provision of care services and how they can be improved.
- 4.2 In the context of the duty to allow entry, the organisations and premises representatives from LINKs can enter are:
- NHS Trusts
 - NHS Foundation Trusts
 - Primary Care Trusts
 - Local Authorities
 - A person providing primary medical services (e.g. GPs)
 - A person providing primary dental services (i.e. dentists)
 - A person providing primary ophthalmic services (i.e. opticians)
 - A person providing primary pharmaceutical services (e.g. community pharmacists)
 - A person who owns or controls premises where ophthalmic and pharmaceutical services are provided
 - Bodies or institutions which are contracted by Local authorities or NHS Trusts, Primary Care Trusts or Strategic Health Authorities to provide care services

5. The Legal Framework

- 5.1 Under the legislation certain individuals will be authorised to enter, view and observe health and social care activities – these will be referred to as ‘authorised representatives’. The Local Government and Public Involvement in Health Act 2007 makes it clear that the representative must only enter and view the premises for the purpose of carrying out the activities of the LINK they represent.
- 5.2 Before an individual can be authorised the LINK must agree procedures for who can be an authorised representative. Regulation 3 of the Local Involvement Network Regulations 2008 sets out arrangements for authorised representatives which are:
- To undergo a Criminal Records Bureau check in line with section 113A of the Police Act 1997 and have a certificate to verify this
 - A nominated person from the LINK has considered the certificate and is satisfied that the person is suitable to carry out visits
- 5.3 The LINK must make publicly available a comprehensive and up to date list of all authorised representatives.
- 5.4 The Local Involvement Networks (Duty of Service – Providers to allow Entry) Regulations 2008 impose a duty on providers of health and social care

services with certain exemptions to allow authorised representatives of LINKs to enter premises that they own or control to observe the services that are being provided, these include those provided via the independent sector. The Government has published legally binding directions which places a duty on those commissioning to ensure that their contracts with independent providers made after 1 April 2008 allow for authorised representatives to enter and view their activities relating to service provision. The legislation allows for both announced and unannounced visits.

5.5 There are exclusions from the duty to allow entry. The duty to enter does not apply in the following circumstances:

- If the visit compromises either the effective provision of a service or the privacy or dignity of any person
- If the premises where the care is being provided is a person's own home (this does not mean that an authorised representative cannot enter when invited by residents- it just means there is no duty to allow them to enter)
- Where the premises or parts of the premises are used solely as accommodation for employees
- Where the premises are non-communal parts of care homes
- Where health and social care services are not provided at the premises (such as offices) or where they are not being provided at the time of the visit (for example when they are closed)
- If in the opinion of the provider of the service being visited, the authorised representative in seeking to enter and view the premises is not being reasonable and proportionately
- If the authorised representative does not provide evidence that he/she is authorised in accordance with Regulation 4 of the LINKs (Duty of Services – Providers to Allow Entry) Regulations 2008

5.6 Finally an important exclusion for LINKs to be aware of is that the duty does not apply to the observing of any activities which relate to the provision of social care services to children. These are already effective measures in place to scrutinise & oversee children's social care and also to seek the views of children and young people in the development of their services. More information about the regulation and inspection of social care services for children are available from the Ofsted website – www.ofsted.gov.uk

6. Good Practice

6.1 LINKs should have a clear reason such as feedback from local service users, patients or carers which raises concerns about performance or aspects of provision before deciding to enter and view a particular care setting. If it is considered necessary the LINK should then consider what kinds of information might be helpful for the care provider to have before the proposed visit, such as why the LINK is making the visit, names of authorised representatives, suggested date and time, etc.

7. Conduct & Behaviour During a Visit

- 7.1 It is expected that Links authorised representatives will possess certain qualities which help ensure proficiency in conducting visits. For example, they need to have the ability to listen and being sensitive to people's feelings, observant, patient and respectful.
- 7.2 When thinking about conduct on visits, LINKs representatives may find it useful to read and apply the Seven Principles of Public Life, commonly known as the Nolan Principles.

8. Overview and Scrutiny Committees

- 8.1 LINKs will have powers to make referrals to Overview and Scrutiny Committees where a LINK considers that the NHS Trust, Primary Care Trust or Local Authority is not carrying out its duty to involve and consult patients and public, or is not doing so in a satisfactory manner. Where the LINK has been unable to resolve the matter with the NHS or Local Authority it may refer the matter to the OSCs who may decide to investigate further. The referral can relate to health services and social care provided from a body outside the area of the Local Authority to the residents within it.
- 8.2 LINKs should be involved in discussion with OSCs and with NHS bodies and Local Authorities on what constitutes the understanding of 'substantial variation and substantial development'. The current Warwickshire County Council guidance document on NHS on service variations and developments is currently being revised to take account of the new role of LINK.
- 8.3 Finally LINK members can participate in working groups or act as advisors for OSCs. The committees may want to consider what arrangements they may want to put in place such as whether they should be a co-opted member of the committee, voting rights, length of office, etc.

9. Conclusion

- 9.1 Although the LINK is not yet in the position to agree the protocol arrangements the County Council, OSCs including service commissioners can be proactive in deciding what they would find helpful. The report highlights several important issues that need to be taken into consideration in deciding what would be beneficial to ensure there are effective working arrangements. For example:
- a) OSCs may want to consider protocols around:
- reporting arrangements – how flexible will OSCs need to be to ensure a matter of concern is dealt with quickly.
 - how will the committee deal with referrals,
 - how will OSCs deal with matters of concern raised by LINKs (will they need both formal and informal arrangements in place)
 - how will OSCs and LINKs agree their respective work plans, to avoid duplication
 - agreeing whether LINK members can become a committee member or not,

- deciding panel membership
- how to commission LINKs to conduct reviews
- how OSCs will use LINKs to gather local people's view on County Council and NHS services.

b) Service Commissioners may want to consider protocols around:

- arrangements with LINKs for inspecting services,
- how/who will deal with information requests,
- how to use LINKs to gather local people's view on County Council and NHS services,
- how to deal with any concerns raised by LINKs
- agree arrangements on all of the above for services provided jointly by WCC & NHS Warwickshire.

10. Recommendations

10.1 That Overview & Scrutiny Co-ordinating Group:

1. From 9.1 (a) & 9.1 (b) in the report, consider what arrangements/protocols that can be taken forward to jointly agree with LINK members and any other items which the group may want to address.

2. To nominate two representatives from the group to attend the LINKs Event in Butts Park Arena, Butts Road, Coventry on 4th December 2008.

3. Chairs & Spokes of OSCs to make arrangements to meet with Warwickshire LINK Officer and LINK members by end December 2008 or early January 2009 to discuss and agree protocol arrangements. Extend this invitation to include Portfolio Holders for Health & Social Care and lead commissioning officers from WCC and NHS Warwickshire.

DAVID CARTER
Performance & Development
Directorate

Shire Hall
Warwick

22 October 2008