

DRAFT Protocol between the  
Oxfordshire Joint Health Overview and  
Scrutiny Committee  
and  
health and wellbeing providers and  
commissioners serving the population of  
Oxfordshire

## 1.0 Introduction

- 1.1 This Protocol applies to how Oxfordshire Joint Health and Overview Scrutiny Committee (HOSC) will work together with bodies who commission or provide health, social care and wellbeing services to the population in Oxfordshire.
- 1.2 The Protocol sets out some working principles which guide and support the relationship between the scrutiny body and those commissioning or providing health, social care and wellbeing services.
- 1.3 It sets out a way of working when changes are proposed to health and wellbeing services which require consultation and engagement required by legislation. The Protocol also applies to developments that affect smaller numbers of patients, smaller geographical areas or specific services.

## 2.0 Purpose of the protocol

- 2.1 The aim of this protocol is to provide:
  - Improved engagement and communication across all parties;
  - Clear standards which set out how all parties will work together;
  - Greater confidence in the planning for service change, to secure improved outcomes for health services and communities across Oxfordshire.

## 3.0 Aims and responsibilities of health scrutiny

- 3.1 The guidance on health scrutiny, published by the Department of Health in June 2014, stated that:

*“the primary aim of health scrutiny is to strengthen the voice of local people, ensuring that their needs and experiences are considered as an integral part of the commissioning and delivery of health services and that those services are effective and safe.”*

- 3.2 In Oxfordshire, health scrutiny is the statutory duty of Oxfordshire County Council whose constitution states it has:

*“responsibility to “review and scrutinise any matter relating to the planning, provision and operation of the health services in its area” and to make referrals to the Secretary of State about proposals where it considers proposals for service change, or consultations, have been inadequate. It discharges that responsibility to the Oxfordshire Joint Health Overview and Scrutiny Committee (‘the Committee’)”*

- 3.3 The Oxfordshire HOSC Terms of Reference<sup>1</sup> sets out its responsibilities for reviewing or scrutinising services commissioned and provided by all relevant

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NHS bodies and health service providers. This includes GP practices and other primary care providers such as pharmacists, opticians and dentists and any private, independent or third sector providers delivering services under arrangements made by clinical commissioning groups, NHS England or the local authority, including public health and social care services.

- 3.4 References to 'health and wellbeing' commissioners or providers in the remainder of this document is used as a term to include all public, private or voluntary organisations which fall under the Terms of Reference<sup>1</sup> of Oxfordshire HOSC.

#### **4.0 Understanding of the role of the scrutiny relationship**

- 4.1 All parties recognise the role of Oxfordshire HOSC in reviewing or scrutinising any issues relating to the commissioning and provision of health and wellbeing services to the local population.
- 4.2 The bodies involved acknowledge the role of scrutiny in giving the public confidence of effective oversight of their health and wellbeing services. They also recognise the challenges facing the health, care and wellbeing system and that no single organisation can solve these alone.
- 4.3 HOSC provides health and wellbeing commissioners and providers with a clear governance framework, transparency and a critical friend to integrated solutions.

#### **5.0 Application of the Protocol:**

- 5.1 This Protocol is an agreement between Oxfordshire's Joint HOSC which represents the interests of all Local Authorities and residents across Oxfordshire and those bodies who commission and provide health and wellbeing services for the population. It covers health, wellbeing and social care commissioners or providers under the Care Quality Commission (CQC) regulation. CQC regulation, monitoring and inspection is of the following activities:
- Treatment, care and support provided by hospitals, GPs dentists, ambulances and mental health services.
  - Treatment, care and support services for adults in care homes and in people's own homes (both personal and nursing care).
  - Services for people whose rights are restricted under the Mental Health Act
- 5.2 The Protocol is a living document so can include those commissioners or providers who may be involved, now or in the future, in the planning, provision, or operation of health and wellbeing services. It applies to the resident population of Oxfordshire and therefore accordingly where commissioners and providers are serving Oxfordshire residents across the county boundary.

5.3 Where necessary, and in-line with the committee's Terms of Reference<sup>1</sup>, joint health scrutiny committees may be formed across a different geography where a relevant body or service provider is required to consult more than one local authority's health scrutiny function about substantial reconfiguration proposals. This Protocol applies specifically to Oxfordshire HOSC activities but in such circumstances, would be used as a good practice example around ways of working for any other committees discharging the functions of health scrutiny.

## 6.0 Shared goals and working principles:

6.1 The following describe the shared goals and agreed principles by which all organisations covered by this Protocol agree to work:

<b>Shared Goals</b>	
➤	Deliver high quality, sustainable health and wellbeing services that meet the needs of the Oxfordshire population.
➤	Improve the health and wellbeing outcomes for local people, including ensuring activity addresses health inequalities and aligns with the Oxfordshire Health and Wellbeing Strategy.
<b>Working principles</b>	
1.	There is a "no surprises" approach between the organisations concerned. This builds collaboration whilst also allowing scrutiny to constructively challenge strategic decisions.
2.	There is a climate of mutual respect and courtesy, noting one another's independence and autonomy.
3.	Proposals and recommendations are based on appropriately sourced, recognised and clearly presented evidence. This includes relevant clinical evidence.
4.	The views and priorities of local people are gathered and considered in the development of proposals, in scrutiny and in decision making.
5.	The overview and scrutiny approach is transparent, collaborative, constructive and non-confrontational. It is based on asking challenging questions and considering evidence.
6.	There is recognition and respect for the difference which may arise around what constitutes 'best outcomes' for the local population.
7.	Feedback from overview and scrutiny to health and wellbeing organisations is documented and well communicated.

## **7.0 The 'no surprises' approach**

- 7.1 In support of the first working principle, to have a 'no surprises' approach. The HOSC forward plan is informed and developed with regular dialogue with lead commissioners and providers to help in scoping and planning the work of the Committee.
- 7.2 This work takes place through a bi-monthly meeting between the Chairman and three other Members of HOSC and Oxfordshire CCG called a 'HOSC Planning Group'. Notes from the HOSC Planning Group are taken, and reported formally to the Committee at its following meeting in the HOSC Chairman's report with relevant items added to the Committee's Forward Plan.

## **8.0 Service variations and assessing change**

- 8.1 In circumstances where there are variations or developments to health and care services, relevant organisations will work in accordance with the working principles above to assess how significant the variation is.
- 8.2 Whether a development or variation is substantial is not precisely defined and judgement is required. The impact of the change on patients, carers and the public is the key concern. The following factors should be taken into account:
- The number and vulnerability of the people affected by the proposed change.
  - Changes in accessibility of services (both in terms of location and quantity of service available) such as reductions, increases, relocations or withdrawals of service.
  - Impact on the wider community and other services such as transport and regeneration and economic impact
  - Impact on patients – the extent to which groups of patients are affected by a proposed change.
  - Methods of service delivery – altering the way a service is delivered. The views of patients and Healthwatch are essential in such cases.
- 8.3 The following describes and gives examples of the levels of change, variation or development which may occur in in health and wellbeing service for Oxfordshire:

## Levels of change

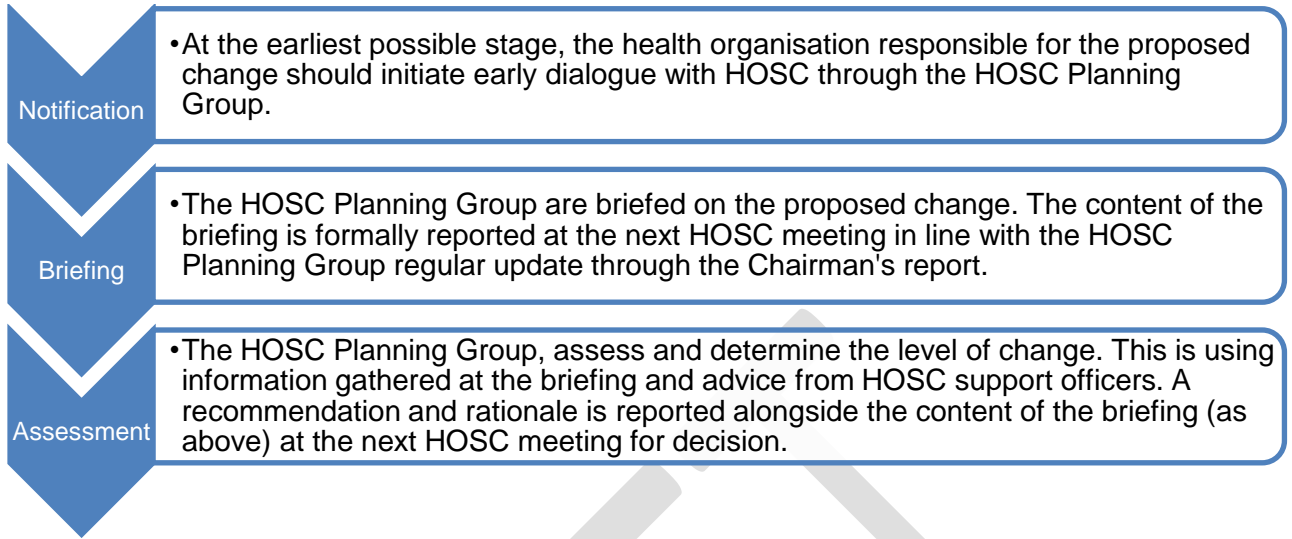
8.4 The 'levels' of change which may occur are:

Level	Category	Description	Example(s)	Action required
1	Minor	When the proposed change is <b>minor</b> in nature	A change in clinic times, the skill mix of particular teams, or small changes in operational policies.	Committee would not routinely be notified or become involved.
2	Moderate	Where the proposed change has <b>moderate</b> impact or consultation has already taken place on a national basis	Rationalising or reconfiguring Community Health Teams. Policies that will have a direct impact on service users and carers, such as the "smoke free" policy. This does not include where there is: <ul style="list-style-type: none"> <li>• Reduction in service</li> <li>• Change to local access to service</li> <li>• Large numbers of patients being affected</li> </ul>	The responsible commission notifies the HOSC Planning Group at an early stage. HOSC Planning Group determine whether a fuller briefing is required in accordance with the Committee's stage one assessment process described below. The Committee will wish to ensure that the Healthwatch and other appropriate organisations are notified by the responsible commissioner or service provider concerned.
3	Substantial	Where the proposal has <b>substantial</b> impact and is likely to lead to – <ul style="list-style-type: none"> <li>• Reduction or cessation of service</li> <li>• Relocation of</li> </ul>	Major review of service delivery, reconfiguration of GP Practices leading to practice closures, or the closure of a particular unit.	<ul style="list-style-type: none"> <li>• The responsible commissioner(s) notify the Committee and formally consult the Committee. The Committee will expect to see formal consultation plans. The Local Ward Councillors concerned will be informed of the proposal.</li> <li>• The responsible commissioner(s) notify and discuss with the appropriate local authorities on service developments.</li> <li>• The responsible commissioner(s) follow the NHS duty to consult patients and the public.</li> <li>• The Committee consider the proposal formally at one of</li> </ul>

Level	Category	Description	Example(s)	Action required
		service <ul style="list-style-type: none"> <li>• Changes in accessibility criteria</li> <li>• Local debate and concern</li> </ul>		their meetings. <ul style="list-style-type: none"> <li>• Officers of the responsible commissioners and service providers work closely with the Committee during the formal consultation period.</li> <li>• The Committee responds within the time-scale specified by the responsible commissioners. If the Committee does not support the proposals or has concerns about the adequacy of consultation it should provide reasons and evidence.</li> </ul>

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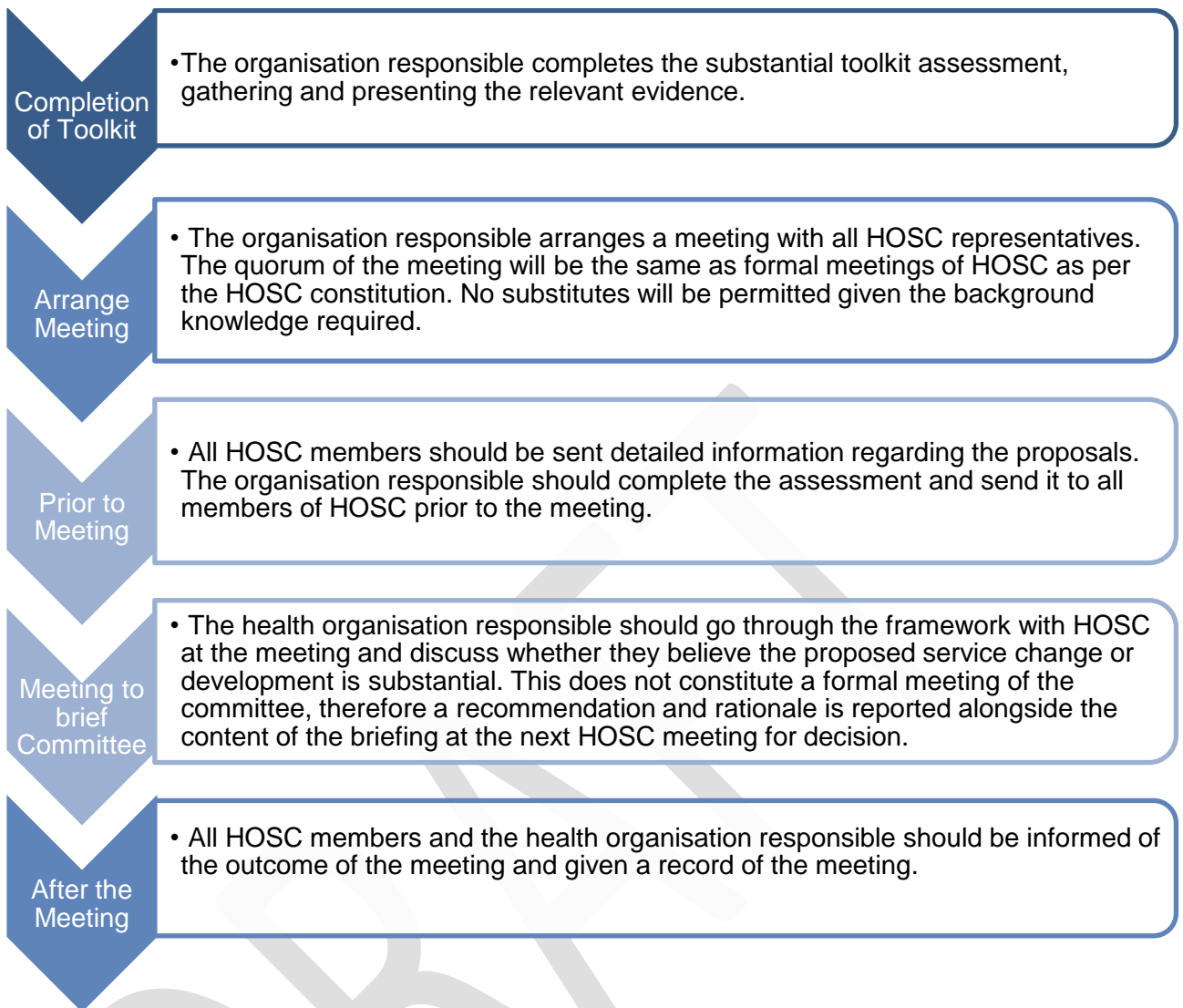
**Stage one:**



**Stage Two**

8.5 Where there is no clear answer or disagreement on which 'level' of change is proposed, the following process takes place:





### **A final say**

8.6 Should there still be disagreement over whether a service change or variation is substantial at the end of a stage two assessment; it is the view of HOSC which prevails. The HOSC view therefore determines whether a service variation is substantial and requires commissioners to consult.

### **Exemptions:**

8.7 The following are exemptions of when the Committee will not need to be consulted:

- The Committee will only be consulted on proposals to establish or dissolve a NHS trust or CCG if this represents a substantial development or variation to the provision of health services.
- The Committee does not need to be consulted on proposals for pilot schemes within the meaning of section 4 of the NHS (Primary Care) Act 1997 as these are the subject of separate legislation.

- A responsible commissioner will not have to consult the Committee if it believes that a decision has to be taken immediately because of a risk to the safety or welfare of patients or staff. These circumstances should be anticipated and reported in advance; making unanticipated situations the absolute exception. The Committee will be notified immediately of the decision taken and the reason why no consultation has taken place. The notification will include information about how patients and carers have been informed about the change and what alternative arrangements have been put in place to meet the needs of patients and carers.

## **9.0 Consulting with the Committee**

- 9.1 As identified in the table above, where a 'Level 3' or substantial service variation is identified, the responsible commissioner(s) will notify the Committee and formally consult HOSC. This is in addition to discussions between the responsible commissioner(s) and the appropriate local authorities on service developments. It is also additional to the NHS duty to consult patients and the public.
- 9.2 The Committee has the responsibility to comment on:
- Whether as a statutory body the Committee has been properly consulted (in addition to the public consultation process).
  - The adequacy of the consultation undertaken with patients and the public.
  - Whether the proposal is in the interests of health services in the area.
- 9.3 Oxfordshire County Council and the other Oxfordshire district and city councils have delegated their power of referral to the Oxfordshire Joint Health Overview and Scrutiny Committee (HOSC). This means that HOSC may refer proposals for substantial service developments or variations to the Secretary of State where it is not satisfied that:
- Consultation on any proposal for a substantial change or development has been adequate in relation to content or time allowed.
  - The proposal would be in the interests of the health service in Oxfordshire.
  - A decision has been taken without consultation and it is not satisfied that the reasons given for not carrying out consultation are adequate.