

## PLYMOUTH CITY COUNCIL

<b>Subject:</b>	Francis Inquiry (into Mid-Staffordshire NHS Foundation Trust) Report and Legislative Update
<b>Committee:</b>	Health and Adult Social Care Overview and Scrutiny Panel
<b>Date:</b>	28 February 2013
<b>Cabinet Member:</b>	Councillor Peter Smith, Deputy Leader / Councillor Sue McDonald,
<b>CMT Member:</b>	Adam Broome, Director for Corporate Services / Carole Burgoyne, Director for People
<b>Author:</b>	Ross Jago, Democratic Support Officer
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<b>Ref:</b>	N/A
<b>Key Decision:</b>	No
<b>Part:</b>	I

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### **Purpose of the report:**

The purpose of the report is to update the panel on two recent publications which will have an impact on local authority health scrutiny.

Firstly recommendations made by Robert Francis QC following his inquiry into Mid-Staffordshire NHS Foundation Trust. His Inquiry followed concerns about standards of care at the Trust, and an investigation and report published by the Healthcare Commission in March 2009. The report contains 6 recommendations regarding the Health Scrutiny functions of local authorities.

Secondly, the publication of secondary legislation (The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013), following the Health and Social Care Bill 2012, which has a direct impact on Local Authority Health Scrutiny Function.

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### **Corporate Plan 2012-2015:**

Recommendations will support the -

- Clarification of Overview and Scrutiny's engagement with changing delivery arrangements and ways of doing business, particularly in areas like health and crime;
- Make the commitment to Open Plymouth a reality through more open and transparent local government and public service delivery.

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

- None identified.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

- None identified.
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**Equality and Diversity**

Has an Equality Impact Assessment been undertaken? No

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**Recommendations and Reasons for recommended action:**

The panel is asked to –

1. Note the Francis Report's recommendations with regard to scrutiny and the actions which the panel has taken and could take in the future to support them.
  2. Agree to recommend to council the delegation of all health scrutiny functions (other than referral of matters to the Secretary of State for Health) to a Health Scrutiny Panel.
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**Alternative options considered and rejected:**

None

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**Published work / information:**

Robert Francis Inquiry Report into Mid-Staffordshire NHS Foundation Trust –

(<http://www.midstaffpublicinquiry.com/sites/default/files/report/Volume%203.pdf>)

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

(<http://www.legislation.gov.uk/uksi/2012/1021/contents/made>)

**Background papers:**

N/A

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**Sign off:**

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Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No* please delete as necessary													

I Robert Francis Inquiry Report into Mid-Staffordshire NHS Foundation Trust

- I.1 The Inquiry was set up by the Rt Hon Andy Burnham MP, Secretary of State for Health, following a Healthcare Commission report into the trust published in March 2009. The period reviewed by the Inquiry was principally January 2005 to March 2009.
- I.2 The Inquiry was urged to investigate the role of a number of external agencies in the failure to detect and act on the deficiencies revealed by the Health Care Commission investigation, but the terms of reference set did not permit it to do so. It has, however, received a considerable body of opinion on that issue.
- I.3 Moving beyond the NHS to consider the health overview and scrutiny role of local authorities, evidence was received from a number of people about the perceived ineffectiveness of that system in this case. Many comments were about the lack of understanding and grip on the real local healthcare issues.
- I.4 The inquiry received information and documentation from Staffordshire County Council highlighting that their Health Scrutiny agendas contained little evidence that a particularly aggressive or proactive approach was taken in the scrutiny of local NHS services. Apart from a standing item for 'health trust updates' at its monthly meetings, the committee considered just six specific agenda items about the Trust during 2005–08.
- I.5 The following information highlights practical actions that the Plymouth City Council Health Scrutiny function has undertaken or could undertake in the future. The report's recommendations to strengthen the health scrutiny function are useful, but members must be mindful that the Department of Health are yet to respond to the report and there may be further legislative or regulatory changes proposed.

<b>Francis Report Recommendation</b>	<b>Plymouth Health and Adult Social Care Overview and Scrutiny Panel initial response</b>
47 - <i>“The Care Quality Commission should expand its work with overview and scrutiny committees and foundation trust governors as a valuable information resource. For example, it should further develop its current ‘sounding board events’.”</i>	The panel will engage fully with the Care Quality Commission, members of the panel will meet with CQC Compliance Managers and Inspectors on the 6 March 2013 and agree how to work together in practical ways in the new Health landscape.
119 - <i>“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.”</i>	The Lead officer to the panel will explore the potential for information sharing with local trusts. The panel will work with Local Healthwatch to develop this area and provide and opportunity for the new organisation to make regular reports to the panel on complaints received by local NHS services.
147 - <i>“Guidance should be given to promote the coordination and cooperation between Local Healthwatch, Health and Wellbeing Boards, and local government scrutiny committees.”</i>	The lead officer to the panel will take an overview of guidance already produced regarding this relationship and will provide a briefing pack to panel members.

149 - <i>“Scrutiny committees should be provided with appropriate support to enable them to carry out their scrutiny role, including easily accessible guidance and benchmarks.”</i>	The scrutiny function is currently undergoing evaluation.
150 - <i>“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.”</i>	The panel will work with local structures to trigger and follow up inspections where appropriate. Local Healthwatch will continue to have powers enabling the inspection of Healthcare providers and the panel will support the use of those powers.
246 - <i>“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. “</i>	The panel has received quality accounts on an annual basis and made comments to be included in the documents. The panel has consistently requested that providers work together to provide information in a consistent manner.

## 2 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

- 2.1 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 were published on the 8 February 2013. The publication of these regulations enables the local authority to finalise local preparations for new health scrutiny arrangements.
- 2.2 The regulations in relation to health scrutiny make provision for local authorities to review and scrutinise matters relating to the planning, provision and operation of the health service in their area and replace the previous 2002 regulations on health scrutiny. Certain elements of the previous regulations have been preserved but there are new obligations on NHS bodies, relevant health service providers and local authorities around consultations on substantial developments or variations to services to aid transparency and local agreement on proposals.
- 2.3 Previous statute allowed for the referral of substantial variations in service (when deemed appropriate by the panel) direct from the panel to the Secretary of State for Health. This power now rests with full council and regulations make clear that this function is the only health scrutiny function which cannot be discharged by a committee, the has been achieved

by dis-applying Section 101 (a) of the Local Government Act 1972 in relation to this function. If health scrutiny functions are delegated to a scrutiny panel, that panel will need to make recommendations to full council in order to refer substantial variation to the Secretary of State.