



## **Update on the deciding together process – timescale and engagement methods for formal consultation Consultation scheduled to start mid October 2015**

This paper seeks to update the Health Overview and Scrutiny Committee on progress being made around the deciding together process – transforming specialist mental health services in Gateshead and Newcastle – and plans in place for formal consultation to start in October 2015.

### **Background**

Since July 2014, NHS Newcastle Gateshead Clinical Commissioning Group has engaged with, the public, service users, carers, NHS and social care professionals, the voluntary and community sector, elected members and members of parliament about how a new vision for specialist mental health services in Newcastle and Gateshead can be developed.

From November 2014 to January 2015 the CCG led a high profile listening period where sustained efforts were made to capture patient experience, questions, comments, ideas, concerns and suggestions from local communities of interest. The listening exercise was called “Deciding Together: Developing a new vision for mental health services – listening to and collecting your views on specialist mental health services and care.”

In particular there was a need to hear from service users with recent experiences of in-patient service, and their families and carers. There is also a very important third sector voice. This includes both organisations that provide mental health services and those who support the interests of service users and carers.

People’s experiences are being used to consider how the quality of mental health care and treatment for local people can be significantly improved and how things might be done differently in the future.

The information that was gathered is helping the CCG better understand the needs of local people, and what changes would improve access, treatment and help people get better, sooner.

The purpose of the listening exercise was to form part of the pre-engagement phase as a precursor and to inform scenarios for change which are subject to the formal NHS consultation process which is planned for mid-October 2015.

The consultation process will contain a consultation document which will outline different scenarios for change. The engagement activity outlined below will allow people to consider each of the scenarios and feedback their views.

The final decision will be made by NHS Newcastle and Gateshead CCG's governing body after taking into consideration all their views that have been heard, and balancing this with the public health needs assessment, clinical evidence base, sustainability and resources available.

A full copy of the feedback report and other key documents can be found at:

[www.newcastlegatesheadccg.nhs.uk/get-involved/deciding-together-2/key-documents/](http://www.newcastlegatesheadccg.nhs.uk/get-involved/deciding-together-2/key-documents/)

## **Legal and policy context for consultation on service changes for the NHS**

Any reconfiguration of services requires a robust and comprehensive engagement and consultation process. NHS organisations are required to ensure that local people, stakeholder and partners are informed, involved and have an opportunity to influence any changes.

The process for involving people requires a clear action plan and audit trail, including evidence of how the public have influenced decisions at every stage of the process and the mechanisms used.

Section 242 of the NHS Act 2006 (as included in the Health and Social Care Act 2012) sets out the statutory requirement for NHS organisations to involve and consult patients and the public in:

- The planning and provision of services
- The development and consideration of proposals for changes in the way services are provided
- Decisions to be made by NHS organisations that affect the operation of services

Section 244 of the NHS Act 2006 requires NHS organisations to consult relevant Overview and Scrutiny Committees (OSC) on any proposals for a substantial development of the health service in the area of the Local Authority, or a substantial variation in the provision of services.

## **The Public Sector Equality Duty**

S149 of the Equality Act 2010 states that a public body must, in exercise of its functions, have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations
- Remove or minimise disadvantage
- Take steps to meet needs
- Encourage people to participate

Public bodies must also take into account the protected characteristics of:

- Age
- Disability
- Gender re-assignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

## The NHS constitution

NHS Constitution gives the following rights and pledges to patients:

“You have the right to be involved, directly or through representatives, in the planning of healthcare services, the development and consideration of proposals for changes in the way those services are provided, and in decisions to be made affecting the operation of those services.”

“The NHS commits to provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution (pledge);

“The NHS commits to make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered (pledge).

“You have the right to receive care and treatment that is appropriate to you, meets your needs and reflects your preferences.”

## The NHS Mandate ‘Nicholson tests’

Additionally, CCGs have further duties which have been set out through the NHS Mandate 2013-15, which sets out the ‘4 tests’ to be met in services reconfiguration (known as the Nicholson tests)

<b>Support from GP Commissioners</b>	Engagement with GPs, particularly with practices whose patients might be significantly affected by proposed service changes
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<b>Clear clinical evidence base</b>	The strength of the clinical evidence to be reviewed, along with support from senior clinicians from services where changes are proposed, against clinical best practice and current and future needs of patients
<b>Strengthened patient and public engagement</b>	Ensure that the public, patients, staff, Healthwatch and Health Overview and Scrutiny Committees are engaged and consulted on the proposed changes
<b>Supporting patient choice</b>	Central principle underpinning service reconfigurations is that patients should have access to the right treatment, at the right place and the right time. There should be a strong case for the quality of proposed service and improvements in the patient experience

## The Gunning Principles

Before 1985 there was little consideration given to consultations until a landmark case of Regina v London Borough of Brent ex parte Gunning. This case sparked the need for change in the process of consultations when Stephen Sedley QC proposed a set of principles that were then adopted by the presiding judge. These principles, known as Gunning or Sedley, were later confirmed by the Court of Appeal in 2001 (Coughlan case) and are now applicable to all public consultations that take place in the UK.

The principles are:

1. **Consultation must take place when proposals are still at a formative stage**  
Consultation should be at a stage when the results of the consultation can influence the decision-making (and Gunning 4).
2. **Sufficient reasons must be put forward for the proposals to allow for intelligent**  
A preferred option may be included and this must be made obvious to those being consulted. Information and reasons for the proposals must be made available to allow for consultees to understand why they are being consulted as well as all the options available and what these mean.
3. **Adequate time must be given for consideration and response**

There is no set timeframe recommended but reasonable steps must be taken to ensure that those consulted are aware of the exercise and are given sufficient time to respond.

#### **4. The outcome of the consultation must be conscientiously taken into account**

Decision-makers must be able to show they have taken the outcome of the consultation into account – they should be able to demonstrate good reasons and evidence for their decision. This does not mean that the decision-makers have to agree with the majority response, but they should be able to set out why the majority view was not followed.

### **Methods for engagement**

The methods have been discussed in the Deciding Together Advisory Group (DTAG) who have been overseeing the engagement process and is responsible for developing and coordinating communications and engagement activity around all stages of the deciding together public engagement listening process and the formal consultation processes.

DTAG brings together a range of public sector and third sector organisations and formed an advisory group to oversee the listening process and provide a forum which allows two way communications, discussions and agreement between commissioners, Northumberland, Tyne and Wear Mental Health Trust and key third sector and scrutiny partners including HealthWatch.

The objective is to provide a range of engagement activity that allows different stakeholders and groups to get involved in the way that is most suitable to them. All methods ensure that feedback and dialogue is captured, which will be then be analysed and included in a final feedback report. All methods will include data monitoring of the key characteristics of participants to ensure the CCG is hearing from key groups and that equality monitoring can take place.

This is not only best practice, but will also ensure that the NHS meets its equality duties as well as its statutory duties to involve and consult. They are in line with the principles of 'Transforming Participation' and the rights and pledges set out in the NHS Constitution.

There will be a detailed communications plan to ensure appropriate publicity to promote the launch of the consultation and attendance at events and take up of the survey, focus groups etc.

### **Formal CCG led public events**

As part of the consultation process, formal public events should take place across the Newcastle Gateshead area.

There will be four in total – one consultation launch event and three consultation discussion events.

While efforts will be made to specifically target services users, carers and people with a specific interest, it is important that efforts are made to involve the wider public.

### **Consultation launch event –Wednesday 14 October**

The launch event will take place on the first day of the consultation period and will provide an opportunity to gain publicity for the consultation issues, and encourage people to take part.

The format is: Cabaret style two hour event

- Presentation introduction led by CCG clinical leader to explain the background to the process and outline each of the scenarios
- Expert panel question time, independently chaired, cross section of experts to field questions and comment
- Notes taken of comments people make and report written
- Promotion of other ways to get involved to feedback views

### **Consultation discussion events**

Formal consultation discussion events every month (October, November and December) during the consultation period – three events in total. The objective is to present information about the consultation, the scenarios and gain dialogue and feedback on scenarios for change being put forward.

Please note these dates and venues are being sourced.

### **CCG led survey**

A survey provides an easily accessible way for people to give their views. It will be available in both paper form and on-line. Paper versions will include a pre-paid envelope for ease of return. Support will be offered to those who may need to help to complete the survey.

As recommended by the deciding together advisory group, the survey will take account of the following groups:

- Service users
- Carers
- Professionals

## **CCG developed focus group pack for VCS use**

An offer will be made to interested voluntary and community sector organisations to recruit and run a focus group and submit a report. In return reasonable expenses will be covered and a payment of £100 per group made.

This was a successful method used in the listening period and is endorsed by the deciding together group. Responses from key groups would be encouraged. It would be desirable to have a group with current in-patients – and while this may be difficult the deciding together group would like this to be pursued.

## **CCG commissioned in-depth interviews**

Northumbria University will carry out 25 in-depth interviews with service users and their carers. This will be done by peer researchers who have experience of mental health services.

## **CCG commissioned events from the voluntary and community sector**

The deciding together group has recommended that dedicated events could be commissioned by the CCG from specific interest groups of the voluntary and community sector.

The offer would be for groups to organise and run their own events, using a structured template guide in-line with the other engagement methods, which could be tailored for their interest group. In return a payment of £300 plus running and operational costs, Eg room hire, would be covered by the CCG.

The commissioned VCS events would fall into the following categories:

### **Wider VCS events in Newcastle and Gateshead (two events)**

An offer to be made to NCVS for Newcastle and GVOC for Gateshead to run an event in each area as the nature of the interest in the consultation issues are likely to be geographically based.

### **Mental health VCS (one event)**

An offer to be made via VOLSAG to run a mental health VCS event across both Newcastle and Gateshead.

## **Carer events (two events)**

There are two different carers organisations, one in Gateshead and one in Newcastle. Individual events should be commissioned as the nature of the interest in the consultation issues are likely to be geographically based.

## **Service user organisations (two events)**

Service user events should be commissioned and an approach to Launch Pad and Mental Health Matters groups should be made to find out if they would come together for an event or prefer to run their own.

## **Current service users**

Current service users will be targeted with information and invited to the consultation events.

## **Protected characteristic groups**

The Health and Race Equality Forum (HAREF) and Deaflink are CCG involvement partners and will be asked to run focus groups or events as above.

## **Attendance at relevant existing meetings, groups and networks**

These have been mapped through to March 2016 and requests will be made for the consultation to be highlighted and appear as an agenda item.

## **Submissions received from groups, teams and individuals**

All of the above does not preclude the right of groups, individuals and groups to make their own submission. The Deciding together group and the CCG recognised that not everyone will confine their comments to the structured groups and the survey. Any submissions received will be incorporate into the feedback report.

## **Outline Timeframe**

Pre consultation launch Saturday 10 <sup>th</sup> October	World mental health day
Consultation period part 1	Part 1 engagement activity
Wednesday 14th October	Formal consultation begins



	Formal launch event
Wednesday 11 <sup>th</sup> November	Mid-term review the Consultation Institute – Quality Assurance Process Purpose: review activity so far to ensure best practice
Consultation period part 2	Part 2 engagement activity
Wednesday 13 January 2016	Consultation period ends (13 weeks)
Thursday 14 January 2016	Analysis of feedback takes place
Monday 8 <sup>th</sup> February to Monday 22 <sup>nd</sup> February 2016	Public feedback on what has been heard Public feedback events and publication of feedback report to stakeholders  All feedback is published on the CCG website  Proactive publicity on the feedback and invitations to feedback sessions.
Tuesday 22 <sup>nd</sup> March 2016	CCG governing body decision making
Post 22 <sup>nd</sup> March 2016	Decision communicated to stakeholders and the public