

Appendix A HERTFORDSHIRE HEALTH CONCORDAT

BETWEEN HERTFORDSHIRE COUNTY COUNCIL, LOCAL NHS ORGANISATIONS & HEALTHWATCH HERTFORDSHIRE

This Concordat is agreed between the following bodies:

1. Hertfordshire County Council (HCC) which will act through its Health Scrutiny Committee (HSC)
2. The Hertfordshire Partnership NHS Foundation Trust (HPFT)
3. East & North Hertfordshire NHS Trust (ENHT)
4. West Hertfordshire Hospitals NHS Trust (WHHT)
5. East of England Ambulance Service NHS Trust
6. Hertfordshire Community NHS Trust (HCT)
7. Herts Valleys Clinical Commissioning Group (HVCCG)
8. East & North Herts Clinical Commissioning Group (ENHCCG)
9. Cambridge & Peterborough Clinical Commissioning Group (CATCH)
10. HealthWatch Hertfordshire (HWH)

Supporting documents

Appendix 1 Background to NHS consultation & HSC Concordat

Appendix 2 Consultation Principles

Appendix 3 Substantial Variation matrix

Appendix 4 Checklist

HERTFORDSHIRE HEALTH CONCORDAT

The Concordat applies to consultations carried out by any of the NHS Bodies, where HCC is among those formally consulted. The principles outlined below apply not only to extensive formal public consultations of the kind required by legislation, but also to developments which will affect smaller numbers of patients, smaller geographical areas or particular services only. The Concordat covers changes resulting from commissioning decisions.

PRINCIPLES

1. Consulting the HSC on “substantial variations”

- 1.1 There is no formal definition on what constitutes a substantial development or variation in health services, although legislation requires that scrutiny committees must be consulted on such changes. This is partly because what counts as “substantial” may depend on local circumstances. Where it is unclear whether a proposal should count as substantial, the relevant NHS body will discuss this with the Head of Scrutiny, in the first instance. If it is agreed that the proposed changes are substantial, HSC will require the NHS to undertake a formal consultation process
- 1.2 Consultation on substantial variations will extend to an appropriately wide group of stakeholders in addition to the HSC and will conform to the principles outlined in this Concordat. Proposals for substantial variations in NHS services will be the subject of a formal public consultation; however HSC may decide not to scrutinize the proposal or consultation as detailed at Appendix 3.
- 1.3 It is not the function of HSC to manage the NHS; therefore scrutiny will not consider managerial decisions

2. No surprises

- 2.1 **A principle of “no surprises” will operate** i.e. HSC would expect to have been informed of any issues at the earliest possible stage.
- 2.2 The Coalition Government has replaced previous consultation guidance by issuing the Consultation Principles. The key Consultation Principles are:
 - departments [*here health bodies*] will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
 - departments [*here health bodies*] will need to give more thought to how they engage with and consult with those who are affected;
 - consultation should be ‘digital by default’, but other forms should be used where these are needed to reach the groups affected by a policy; and
 - the principles of the Compact between government and the voluntary and community sector will continue to be respected.

- 2.3 The work of HSC will reflect the Consultation Principles and follow agreed ways of working
- advance notification of proposed work programmes
 - formal consultation is preceded by extensive discussions and engagement with a wide range of stakeholders and those likely to be affected.
 - substantial informal pre consultation activity takes place to develop proposals.
 - formal proposals in consultation documents should come as no surprise to many of those consulted.
- 2.4 The more evidence the NHS can provide of the extent and effectiveness of its engagement processes and formal consultation, the less likely the HSC will be to insist on longer [i.e. 12 weeks] timescales for consultation or to include matters in its work programme for scrutiny. Evidence that NHS bodies have a culture of engagement and consultation embedded in their day-to-day activities will include
- board papers or other strategy and action planning documents indicating a rich and ongoing process of engaging/consulting service users and potential service users
 - evidence that this process is part of a circle of dialogue and feedback that influences service planning and delivery
 - feedback to HSC from HWH over the course of the planning and delivery cycle about the level, extent, inclusiveness and influence of patient and public consultation and involvement.
- 2.5 Where urgent action is needed because of concerns about risks to the safety or welfare of patients or staff or the viability of a service require urgent action to safeguard public safety and the financial stability of a trust; in such cases HSC would expect to be informed of such moves as soon as is possible.

3. Consulting the right people

- 3.1 It is anticipated that consultation will be underpinned by the NHS Constitution, principles of good practice accepted nationally and the Secretary of State's 4 Tests
- clarity about the clinical evidence base underpinning the proposals
 - has the support of the GP commissioners involved
 - genuinely promotes choice for patients
 - the process must have genuinely engaged the public, patients and local authorities,
- 3.2 Consultation processes will attempt to gather the views of a representative cross-section and a geographical spread of the relevant population. The NHS consulting body will be able to show how it has encouraged people to give their views and how it has enabled the voices of seldom heard people and minorities as well as the majority to be heard. NHS Foundation Trusts will consult their own membership but will

also be expected to consult stakeholders and those affected more widely.

- 3.3 Those consulted (key stakeholders, groups and individuals with an interest and those likely to be affected by any proposed changes) will all be given an opportunity to provide an informed view. HCC, Districts/Boroughs Councils in Hertfordshire and HSC, will be consulted separately as elected representatives (including MPs) and stakeholders, as appropriate. Consultation with the HSC will not be used as a substitute for consultation with HCC's executive. The organisation will need to consult the executive as HCC's decision-making body and with the executives or other decision-making bodies of the Hertfordshire District/Borough Councils, where appropriate, all of whom may have different perspectives from HSC.

4. Being clear about proposals and options

- 4.1 It will be clear that it is a **consultation** not a vote or referendum.
- 4.2 Consultations will have clear stated objectives. It will be made clear to those being consulted what is being proposed. Options will be put forward in good faith, i.e. it will be made clear which options the consulting body considers to be viable ones, what, if any, its current preferences are among these options and what consultees can still change or influence. If certain options have been excluded as being completely unviable, this will be made clear and the constraints spelled out. If the pre consultation engagement has been extensive and the NHS body is able to provide substantial evidence of engagement and how this activity has shaped proposals a trust may consult on one proposal only. It is anticipated that this will be the exception.
- 4.3 The consulting body will also make clear that it will give due regard to new alternative options or aspects of options proposed by consultees during the consultation process. Consultees will be specifically asked for their views on options which they do not favour as an understanding of the advantages and disadvantages of all options from the public perspective may be helpful to decision makers.
- 4.4 Where possible an assessment of the likely effects of proposals on other services and of which groups of people are most likely to be affected will be given, including an assessment of the impact of making no change. Short and long-term impacts, knock-on effects, equalities impacts, sustainability and opportunity costs of options will be outlined with an assessment of the likely impact on transport and local site issues.

5. Consulting in the right way

- 5.1 Consultation will take many forms, both formal and informal, proportionate to the issue and population being consulted. Consultation documents will be widely available and public consultation events widely publicised using a wide range of media and held at times and venues that will suit as wide a variety of people as necessary to make informed

decisions. Materials will state clearly how respondents should respond. They will include a contact point for any consultee who wishes to complain about the consultation process. Numbers responding and responses at all consultation events and to all consultation documents will be recorded and reported in a final summary. Questionnaires will be objective, appropriate and fair and the methodology for analysing them will be indicated in the final report of a consultation.

- 5.2 HSC recognises that public meetings and questionnaires are not always the most appropriate method of consulting people. It is accepted that smaller scale engagement with specific groups can be a more effective means of capturing the views of defined users of particular services and of people whose views are seldom heard.

6. Using accessible language

- 6.1 The language of consultation documents and at consultation events will be accessible, user-friendly and jargon free. Publicity for consultation events and documents will make clear what the overall implications of proposed changes are likely to be (e.g. a proposal to “reconfigure” services that may result in a closure of a hospital or facility will say so and not simply use vague terms such as “Come to a meeting about NHS changes” or “new ways of providing health services”).

7. Effective reporting

- 7.1 Responses to consultations will be analysed using methods that can be shown to be fair and objective and will, where possible, give a demographic breakdown of those responding, including a geographic breakdown.
- 7.2 NHS boards, HSC, HWB, HWH and the public will have access to full reports of consultations. Access for this purpose may include publication of consultation reports to trust boards as posted with board papers on trust websites. All signatories to this Concordat shall also comply with their obligations under the Freedom of Information Act 2000 and shall also disclose such information as may be requested under that Act unless they can clearly demonstrate that exemption from disclosure under the Act applies. However, this is likely to be exceptional in the case of information relating to a public consultation exercise.

8 Objective decision-making and feedback

- 8.1 Decisions made by boards will give due weight and attention to the full range of consultation formats used, including oral and written responses in formal and informal settings. In general, reports of decisions on issues where consultation has taken place will make clear how the pre consultation informal engagement and consultation process has influenced the decision.
- 8.2 Health bodies need to ensure that sufficient consideration has been given to any issues raised during the consultation concerning the impact of the proposals on clinical quality and outcomes

8.3 Wherever possible, direct feedback will be given to groups and individuals who have responded to a consultation, indicating where their views have influenced a decision. Where a decision goes against a large body of opinion of those consulted, or against the view of those who will be most affected, reasons will be given for this.

9. Lessons learned

9.1 In their overall consultation strategies, NHS bodies will show how they have evaluated previous consultations and put into practice the lessons they have learned about how to improve consultation.

9.2 This Concordat will be reviewed and its effectiveness tested with both signatories and other stakeholders including HWH, on an annual basis.

10. Implementation of an agreed strategy

10.1 The implementation of a strategy does not require further scrutiny, unless the implementation is a substantial variation to the agreed strategy. This is especially important if implementation of all or part(s) of the strategy will not take place for a considerable period of time. To enable HSC to monitor implementation it has been agreed that the trusts will undertake a full range of activities. This will include

- regular, short, written updates
- assurance that reconfiguration is in line with the agreed strategy
- reassurance of substantial engagement with users and the community
- hosting site visits for HSC members, where appropriate

The Concordat will be reviewed 12 months after formal agreement