

BOARD PAPER - NHS ENGLAND

Title: Strengthening Patient and Public Participation in the work of NHS England

Lead Directors:

Lord Victor Adebawale, Non-Executive Director

Tim Kelsey, National Director for Patients and Information

Purpose of Paper:

- To seek the Board's approval of (a) a new Patient and Public Participation Policy; and (b) a Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning.
- To seek the Board's support 'in principle' of a recommended 10 point action plan to further strengthen patient and public participation.
- To inform the Board of the proposed next steps.

The Board is invited to:

- Approve the NHS England Patient and Public Participation Policy and the Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning.
- Support the recommended 10 point action plan and agree next steps.

Strengthening Patient and Public Participation in the work of NHS England

Board Meeting – 20 November 2015

1.0 PURPOSE

1.1 The purpose of this paper is to:

- i. To seek the Board's approval of (a) a new Patient and Public Participation Policy; and (b) a Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning. **Both of these documents are presented alongside this paper as part of the Board meeting agenda item.**
- ii. To seek the Board's support 'in principle' of a recommended 10 point action plan to further strengthen patient and public participation.
- iii. To set out the proposed next steps.

2.0 BACKGROUND

2.1 NHS England's commitment to put patients and the public at the heart of everything we do is underpinned by the *NHS Constitution* and is clearly expressed within the *Five Year Forward View*.

2.2 NHS England has a legal duty to involve the public in commissioning (planning, buying, managing and monitoring) services under section 13Q of the NHS Act 2006 (as amended by the Health and Social Care Act 2012).

2.3 At its meeting in November 2014, the Board agreed to establish a task and finish group under the chairmanship of Lord Victor Adebawale, Non-Executive Director, to 'take forward proposals about how to embed a culture of patient and public engagement'. The need to set a 'new standard for patient and public participation in [NHS England] decision making processes – with particular focus on improving citizen engagement in specialised and primary care commissioning,' was noted.

2.4 The work of the Task and Finish Group builds on a number of other developments in the field of patient and public participation, nationally, regionally and locally. For example, in 2013, we published statutory guidance for commissioners (*Transforming Participation in Health and Care*) and in the last two years the [NHS Citizen](#) programme to support dialogue between NHS England and the public has been developed using open policy making processes and with full engagement of citizens.

2.5 Membership and terms of reference of the Task and Finish Group are set out at Appendix A. Following discussion at the NHS England Leadership Forum in early 2015, the Group has been supported in its work by a director-level group. This group was redefined in August 2015 as the Patient and Public Participation Oversight

Group, one of 14 oversight groups providing assurance on delivery of the organisation's key priorities as set out in the Business Plan.

3.0 THE WORK OF THE TASK AND FINISH GROUP

Stocktake

- 3.1 The Task and Finish Group firstly commissioned a stocktake to identify the existing level of patient and public participation activity in NHS England, at national directorate, regional and local levels. This has been used to inform the development of the new policy and arrangements, and the recommended 10 point action plan set out in this paper at paragraph 3.7.

Policy on Patient and Public Participation and Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning

- 3.2 The Task and Finish Group has overseen development of an over-arching policy for the public and for NHS England staff, to show why participation matters, and to outline our responsibilities, principles and approach. Accompanying the policy is a document setting out NHS England's arrangements and guidance on patient and public participation in commissioning. Both documents are presented alongside this report. The arrangements and guidance document sets out what the organisation does to meet its section 13Q legal duty. It is primarily a resource for NHS England staff, and will also be available to the public on the NHS England website. Both documents build on and are complementary to the existing *Transforming Participation in Health and Care* guidance.
- 3.3 The policy and arrangements documents were developed with NHS England staff, external stakeholders and with legal advice. The key partner organisations, including those representing patients and the public, which were approached and asked to contribute their perspectives as part of an intensive engagement exercise, are listed at Appendix B. The engagement exercise included meetings, webinars, workshops, newsletters and other communications. In addition, drafts of the documents were made publicly available on the NHS England website for comment via a brief questionnaire. All comments gathered through the engagement exercise have been carefully considered and incorporated as appropriate within the policy, arrangements and recommended action plan.
- 3.4 We are committed to providing opportunity over the coming year for comment by all stakeholders (including staff, patients and the public) on how the policy and arrangements are working in practice, once they have been approved and published. In addition to reviewing and updating the policy and arrangements, we will also

review and revise the Transforming Participation in Health and Care guidance, to provide a fully complementary suite of documents.

- 3.5 A number of actions are already underway to embed participation in 'business as usual'. As part of the business planning process for 2016/17, guidance has been issued to NHS England teams on the use of patient and public insight (feedback) in determining priorities, and on incorporating appropriately resourced plans for patient and public participation within programme plans. Work is in hand to develop reporting of patient and public participation to the Board and others and to strengthen the connections between Non-Executives and patient/public voice representatives throughout NHS England, and the wider NHS, in collaboration with the CCG Patient and Public Involvement Lay Members Network.

Frameworks for participation in specific areas of commissioning

- 3.6 NHS England is responsible for commissioning primary care, specialised services, health in justice, health services for the armed forces, and some public health services. Detailed and bespoke frameworks for participation in each of these areas to supplement the overall arrangements are currently being co-produced with staff, patients and the public, and key partner organisations (see Figure 1). Plans are in place for all of the frameworks to be developed and published by the end of March 2016. They will build on examples of good practice that have been identified from around the country. In addition, comprehensive commissioning policy manuals, incorporating appropriate guidance on participation and reference to the arrangements, have recently been produced for the four service areas of primary care:- general practice, dental, community pharmacy and optometry (eye health) services.

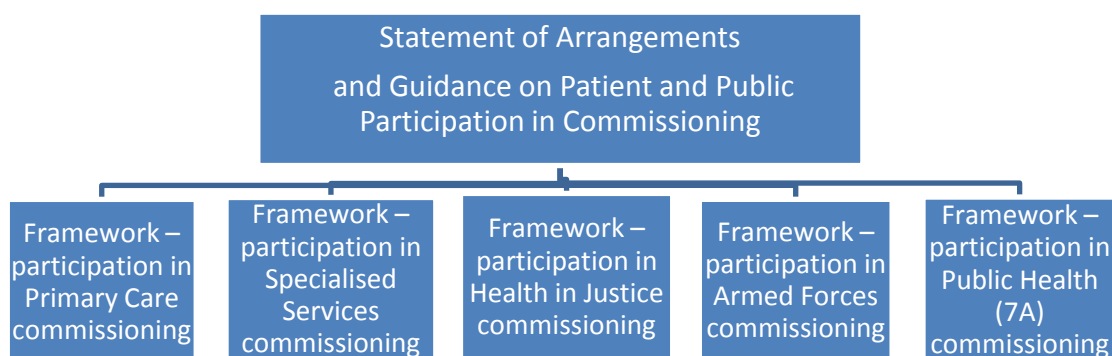


Figure 1

Recommended patient and public participation action plan

- 3.7 To effectively implement the policy and arrangements, and further strengthen patient and public participation in NHS England, the Task and Finish Group recommends the following ten point action plan.

	Action	Timescale
1	Develop capacity and capability to support participation in commissioning i. Agree and document the necessary skills, attributes, resources and potential partnership opportunities for commissioners to practice good participation ii. Finalise evaluation of current capacity and capability; identify any new resource requirements within the business planning process. iii. Develop a framework of specialist support	i. December 2015 ii. January 2016 iii. March 2016
2	Create opportunities for dialogue between NHS England and patients and the public, embedding the ‘NHS Citizen’ programme and approach throughout the business Continue to develop, build and roll out a fully-fledged model that facilitates and supports participation and dialogue between citizens and staff across all parts of NHS England, including at Board level.	On-going through 2016/17; programme milestones set
3	Empower staff and the public through training and development - under the ‘ Participation Academy ’ element of NHS Citizen, introduce a range of training and development/support for NHS England staff and for patients and the public.	On-going for induction training; other elements will be one-off
4	Produce further guidance and resources including revising and reissuing the <i>Transforming Participation in Health and Care</i> interactive online guidance	Revised guidance – April 2017
5	Embed patient and public participation plans and arrangements in all business planning throughout NHS England	March 2016
6	Enhance performance reporting (developing and using activity and impact indicators) i. Report to the Oversight Group	i. Jan 2016

	<ul style="list-style-type: none"> ii. Annual Report iii. Introduce new indicators for the Board as part of the performance report 	<ul style="list-style-type: none"> ii. June 2016 iii. Sept 2016
7	<p>Build patient and public voice into governance and assurance</p> <ul style="list-style-type: none"> i. Recruit and support patient and public voice lay members ii. The People Bank will match interested members of the public to opportunities building an expectation of coproduction into our business iii. Review NHS England's policy on how to identify and manage actual or potential conflicts of interest in respect of Patient and Public Voice (PPV) activity, in line with broader work around Sunlight disclosures iv. Refresh and expand PPV membership of relevant NHS England Specialised Commissioning and other groups as appropriate 	<ul style="list-style-type: none"> i. On-going; review progress quarterly starting April 2016 ii. Programme milestones set iii. March 2016 iv. March 2016
8.	<p>Develop levers and incentives</p> <ul style="list-style-type: none"> i. Strengthen assurance of participation in commissioning including specific testing of compliance with the s.13Q legal duty to involve the public in commissioning. ii. Explore potential use of financial levers to incentivise higher standards of participation. 	<p>On-going; review progress quarterly starting April 2016</p>
9	<p>Share learning and best practice</p> <ul style="list-style-type: none"> i. Establish a professional network to strengthen connections within NHS England ii. Ensure that networks are developed at local level to maximise the potential of partnerships with CCGs, local authorities and others, building a place-based approach to participation that supports devolution and delegation of commissioning to neighbourhood level. 	<ul style="list-style-type: none"> i. April 2016 and on-going; review progress quarterly ii. Stocktake of local partnership working – June 2016
10	<p>Celebrate success and champion participation throughout the NHS</p> <ul style="list-style-type: none"> i. Publicise good news stories and relevant research findings on the benefits of participation through various communication 	<p>On-going; review progress quarterly starting June 2016</p>

	channels	
	ii. Promote participation as a key aspect of relevant health and care award programmes, liaising with partners as appropriate	

Resources Required

4.3 Internal discussions are underway to identify required resources.

5.0 NEXT STEPS

- 5.1 Subject to Board approval, the policy and arrangements will be widely publicised to staff and partner organisations, and made available to the public on the NHS England website. An 'easy read' version of the policy has been produced and will also be available on the website. The public participation team in the central support centre will work with NHS England colleagues (notably those in communications and engagement teams and patient experience teams) at national, regional and area team level in raising awareness of the documents and their implications for working practice.
- 5.2 We will implement the recommended patient and public participation action plan.
- 5.3 Assurance of implementation will be the responsibility of the Patient and Public Participation Oversight Group.
- 5.4 The Board Task and Finish Group has now completed its originally agreed task. It is proposed that the group continues to provide further strategic direction on implementation of the action plan, and that there are at least two further meetings in 2016 to monitor progress and assess whether the plan has achieved the ambition.
- 5.5 A progress report will be made to the Board before the end of March 2017, to evaluate implementation and impact of the policy, arrangements and action plan.
- 5.6 Leadership support will be required across the organisation, to embed it within business as usual and to develop the organisational culture to fully realise its benefits.

6.0 RECOMMENDATIONS

6.1 It is recommended that the Board:

- i. Approve the NHS England Patient and Public Participation Policy and the Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning.
- ii. Support the recommended 10 point action plan and agree next steps.

Authors: Lord Victor Adebawale, Non-Executive Director
Tim Kelsey, National Director for Patients and Information

Date: November 2015

Board Task and Finish Group – Membership and Terms of Reference

Membership:

Victor Adebawale (Chair, Non-Executive Director)
Margaret Casely-Hayford (Non-Executive Director)
Tim Kelsey (National Director for Patients and Information)
Karen Wheeler (National Director: Transformation and Corporate Operations)
Mr Jason Stamp (Lay Member)
Mr David Newton (Lay Member)

Terms of reference:

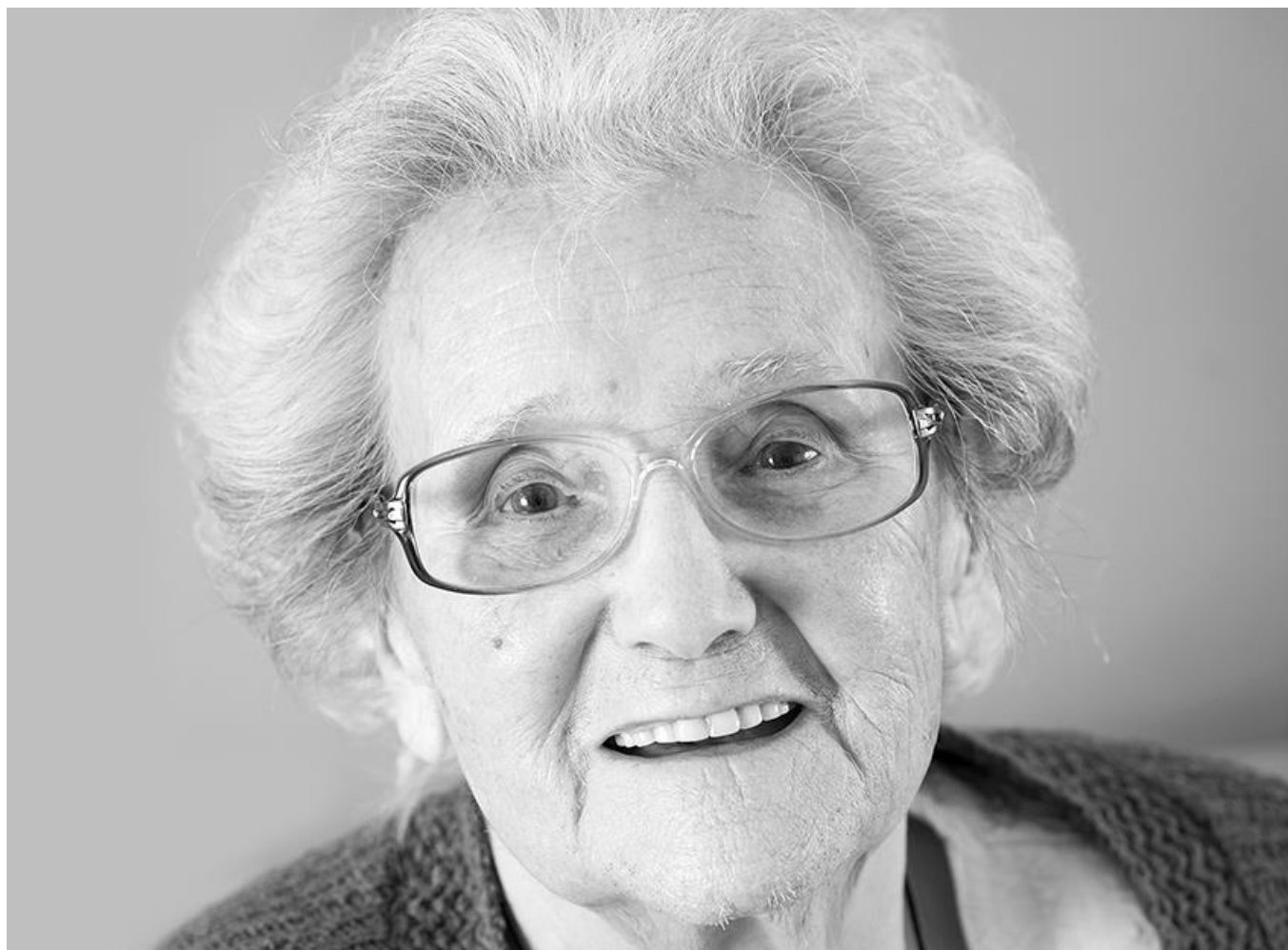
- To develop a clear understanding across NHS England of the organisation's statutory duties in relation to patient and public participation, as set out under section 13Q of the 2012 Act;
- To develop a clear understanding across NHS England of the principles and approach to patient and public participation encompassed within the NHS Citizen model;
- To ensure that a framework to adopt this type of approach is in place and properly resourced, as a core part of all direct commissioning functions and key national programmes undertaken by NHS England;
- To understand and put in place plans for the creation of the right levers and incentives to ensure an embedded approach to patient and public participation. These will include key work on:
 - *defining the standard of public participation required;*
 - *testing and embedding the approach in different settings;*
 - *contractual, regulatory and financial incentives;*
 - *training, support and resources;*
 - *measuring success – outcome and proxy outcome metrics;*
 - *evaluating the evidence.*
- To ensure that the work of the task and finish group is developed in genuine co-production with citizens, patients/service users and other key partners.

**Partner organisations approached as part of the external engagement exercise
regarding the new policy and arrangements**

1. Strategic Partnership Members:-

1.	Age UK
2.	National Voices
3.	National LGB&T (Lesbian Gay Bisexual and Trans) Partnership
4.	Young People's Health Partnership
5.	NACRO, Action for Prisoners' and Offenders' Families and Clinks
6.	Disability Partnership
7.	Mental Health Consortia
8.	NAVCA (National Association for Voluntary and Community Action)
9.	Volunteering Matters
10.	UK Health Forum
11.	National Housing Federation (NHF)
12.	FaithAction
13.	Men's Health Forum (MHF)
14.	National Children's Bureau (NCB)
15.	Race Equality Foundation (REF)
16.	Women's Health and Equality Consortium (WHEC)
17.	Regional Voices
18.	Carers Trust and Carers UK
19.	Voluntary Organisations Disability Group (VODG), National Care Forum (NCF) and Sue Ryder
20.	Disability Rights UK, Shaping Our Lives and CHANGE
21.	National Council for Palliative Care (NCPC), Hospice UK and Marie Curie Care
22.	Health, Work and Wellbeing Group (HWWG)

2. Richmond Group of Charities
3. Patient and Public Voice Assurance Group – Specialised Commissioning
4. Working Group for Public Participation in Primary Care Commissioning
5. Healthwatch England
6. Local Healthwatch organisations throughout England
7. Healthwatch and Public Involvement Association
8. National Network of Clinical Commissioning Group Patient and Public Involvement Lay Members
9. Armed Forces
 - British Legion
 - SSAFA
 - Army's Families Federation
 - RAF Families Federation
 - Navy Families Federation
 - Poppy Factory
10. Health & Justice
(NB: NACRO and CLINKS already covered as Strategic Partner organisations)
 - Family Lives
 - User Voice
 - Revolving Doors
 - The Survivor Trust
 - National Offender Management Service
 - World Health Organisation, Health in Prisons Programme
11. People and Communities Board
12. Patients Association
13. Department of Health
14. NHS Confederation
15. Monitor
16. Care Quality Commission
17. Health Education England
18. Public Health England
19. King's Fund
20. Local Government Association
21. Clinical Commissioning Groups (through the CCG Bulletin)
22. Vanguard sites
23. National Institute of Health Research
24. Primary Care Commissioning (PCC)
25. NHS Leadership Academy



Patient and Public Participation Policy

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NHS England Patient and Public Participation Policy

Version number: 4

First published: November 2015

Prepared by: Head of Programme Delivery, Public Participation Team

The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

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1 Policy statement

- 1.1 This policy is for patients and the public, and for NHS England staff. It sets out our ambition of strengthening participation in all of our work, and how we intend to achieve this.
- 1.2 Patients and the public are at the heart of everything we do, in line with the [NHS Constitution](#). We believe that by listening to people who use and care about our services, we can understand their diverse health needs better, focus on and respond to what matters to them. We will work in partnership with patients and the public, to improve patient safety, patient experience and health outcomes; supporting people to live healthier lives. By prioritising the needs of those who experience the poorest health outcomes, we have more power to improve access to services, reduce health inequalities in our communities and make better use of our resources.
- 1.3 The [Five Year Forward View](#) sets out a vision for a shift in power to patients and the public.

‘One of the great strengths of this country is that we have an NHS that – at its best – is ‘of the people, by the people and for the people...we need to engage with communities and citizens in new ways, involving them directly in decisions about the future of health and care services.’

Source: The Five Year Forward View, 2014.

- 1.4 We will support our staff with training and resources to enable them to develop a proactive and effective dialogue with patients and the public. We will also support other people to be involved, as appropriate, for example by providing information and other resources. To facilitate participation, expenses will be paid to non-staff in accordance with our policy: [‘Working with our Patient and Public Voice Partners: reimbursing out of pocket expenses and involvement payments for Patient and Public Voice.’](#)
- 1.5 Participation (sometimes referred to as engagement or involvement) can take place in a variety of ways, for example through social media, voluntary organisations, elected representatives, consultations and meetings. We will support staff to promote the patient voice and embed it across our business, from commissioning (the process of specifying, securing and monitoring services to meet people’s needs) to programme management and policy making. We recognise the links between staff engagement and public engagement, and value the contribution that staff members can make, not only as employees, but also as users of NHS services themselves.
- 1.6 A significant element of our work involves commissioning, and in this regard there are specific legal requirements. NHS England has a legal duty under section 13Q of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) to properly involve patients and the public in our commissioning processes and decisions. The ways in which we do this are set out in the *Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning*. Detailed guidance, best practice and

resources to support participation, including the [Transforming Participation in Health and Care](#)¹ guidance, underpin both this policy and the arrangements for public involvement in commissioning.

- 1.7 For the latest information and details of how to access support and advice, visit the Patient and Public Participation page on the [NHS England website](#). Staff may also wish to visit the relevant page on the [NHS England intranet](#).

2 Introduction

- 2.1 Our approach to patient and public participation is constantly evolving. We aim to continuously learn from and share our experience of participation, to maximise its impact.
- 2.2 There are different forms and degrees of patient and public involvement, as illustrated by the '*Ladder of Engagement and Participation*' based on the work of Sherry Arnstein. This is shown at Appendix 1. Different levels of involvement will be appropriate in different circumstances. We recognise the importance of taking an appropriate and proportionate approach and that there may be costs (direct and indirect) in undertaking participation activities. We also recognise the benefits in fostering good relations and maintaining on-going dialogue with patients, the public and other stakeholders. In addition, participation activities should take place at the time when they can have maximum influence. The '*Engagement Cycle*' developed by InHealth Associates (Appendix 2) should be used where appropriate to help identify these opportunities.
- 2.3 Involving patients and the public isn't always easy and can take time, but done well, has been shown to be highly effective in developing services that better meet patient needs and lead to better health outcomes. Conversely, as starkly illustrated by the [Francis Inquiry](#) into events at Mid-Staffordshire Hospitals, when NHS staff do not take account of the views of those whom they are serving, the consequences can be very serious.
- 2.4 We recognise the need to provide clear and accessible information to patients and the public in a variety of ways to suit their different needs, and to make arrangements as necessary to facilitate their involvement in our work. It is important that relevant sources of evidence are cited and that resource

¹ * FOOTNOTE: *Transforming Participation in Health and Care* (2013) is intended to be used by all commissioners of NHS services, both within NHS England and clinical commissioning groups (CCGs). This formal guidance, which both NHS England and CCGs must have regard to, relates to two key duties which fall on both NHS England and CCGs under the Act:

- The **patient involvement duty** (section 13H for NHS England, section 14U for CCGs) which is aimed at enabling patients to participate in planning, managing and making decisions about their care and treatment.
- The **public involvement duty** (section 13Q for NHS England, section 14Z2 for CCGs) which is aimed at enabling the effective participation of the public in the commissioning process itself, so that services reflect the needs of local people.

limitations and other relevant constraints are made explicit. This supports open and honest conversations to take place which may be difficult but can generate workable and effective solutions.

- 2.5 Where appropriate, people should be asked about how they want to be involved, for example seeking feedback on participation plans and considering where co-production may be appropriate.

3 Scope

- 3.1 This policy applies throughout NHS England i.e. to all national and regional teams and across all of our business functions, including hosted organisations such as the clinical senates and strategic clinical networks.

4 Roles and responsibilities

- 4.1 We all have a role to play in strengthening patient and public participation in our work, both individually and collectively. **All staff** are responsible for considering the need for patient and public participation in their work and undertaking this as appropriate.
- 4.2 The following paragraphs set out specific responsibilities within NHS England. Hosted organisations are expected to have these responsibilities reflected within their own organisational structures.
- 4.3 **The Board of NHS England** is responsible for NHS England's performance in relation to all legal duties including the duty to make arrangements to involve the public in commissioning. The **Chief Executive** is accountable to the Board and all **National Directors** are responsible for patient and public participation within the work of their own directorates.
- 4.4 **The Chairman and other Non-Executive Directors** are themselves largely lay members who are non-NHS employees, and have responsibility for ensuring that the views of patients and other members of the public are appropriately considered by the Board.
- 4.5 **The National Director for Patients and Information** has responsibility for sponsoring the development and implementation of this policy and the associated [Statement of Arrangements and Guidance for Patient and Public Participation in Commissioning](#). S/he also oversees the team which supports the organisation in its duties and ambitions to strengthen patient and public participation.
- 4.6 **Regional Directors** are responsible for ensuring appropriate patient and public participation within the work of their own regions. Specialist advice and support (internal or external) may be required. This includes working with local partners, such as Clinical Commissioning Groups, Local Authorities and voluntary sector organisations.

4.7 **All Managers** have responsibility for:

- ensuring that the need for patient and public participation is considered and appropriate action is taken, for the work for which they are accountable. Those responsible for commissioning should be aware of the organisation's statutory duty to involve the public in this area of work, and take action as appropriate.
- contributing to the implementation of this policy and promoting an organisational culture in which patient and public participation is 'everyone's business'. This includes supporting formal and peer to peer learning, and celebrating success.
- contributing to the monitoring, evaluation and reporting of implementation of this policy and the effectiveness of action to strengthen patient and public participation.

5 Our approach

5.1 We believe in and will seek to uphold the following principles of participation, which are based on a review of research and best practice, and the views of patients and the public:

Working with each other	Working well together
<ol style="list-style-type: none"> 1. Our relationships will be conducted with equality and respect 2. We will listen and truly hear what is being said, proactively seeking participation from communities who experience the greatest health inequalities and poorest health outcomes 3. We will use all the strengths and talents that people bring to the table 4. We will respect and encourage different beliefs and opinions 5. We will recognise, record and reward people's contributions 6. We will use plain language and will openly share information 	<ol style="list-style-type: none"> 1. We will understand what's worked in the past, and consider how to apply it to the present and the future 2. We will have a shared goal and take responsibility for our work 3. We will take time to plan well 4. We will start involving people as early as possible 5. We will give feedback on the results of involvement 6. We will provide support, training and the right kind of leadership so that we can work, learn and improve together

5.2 We will build on existing resources and good practice to:

- try to ensure that patients and the public have a voice throughout the organisation by developing our governance arrangements to embed participation (including decision making and business planning processes). We will offer meaningful roles on relevant working groups to those who are experts by experience or lay members.

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- put in place clear and rigorous safeguards to identify and manage actual or potential conflicts of interest in respect of Patient and Public Voice (PPV) activity, in line with broader work around 'Sunshine' disclosures. This will ensure that information about the outside interests of patients and the public who work with us (e.g. connections with industry) will be transparently declared.
- reach out to - and work with - a wide range of people, reflecting the diversity of our communities, to have conversations about health, wellbeing, and services. We will aim to go to people rather than expecting them to come to us. We will strengthen our partnerships (and maximise shared engagement opportunities where appropriate) with organisations which can bring different perspectives. These include (but are not limited to) Healthwatch, Health and Wellbeing Boards, Clinical Commissioning Groups, Local Authorities, Health and Care Voluntary Sector Strategic Partner organisations, and the wider voluntary and community sector, in addition to our direct engagement with patient and community groups, and advocacy organisations.
- use available information (such as complaints, surveys and the outcomes of any previous engagement exercise) prior to considering new engagement.
- identify and try different ways of having conversations and working with patients and the public, for example using [NHS Citizen](#) and social media.
- develop a more open, transparent and responsive culture and more inclusive and participative ways of working by providing appropriate incentives, support, tools and resources (including training).
- 'close the loop' whenever we seek the views of patients and the public. We will do this by feeding back the results of any consultation or engagement exercise to participants and explaining how views have been considered and impacted on our work, and the rationale for decisions taken.
- celebrate success and learn from experience (positive and negative) by measuring the effectiveness of our patient and public participation activity (including outcome indicators). We will develop new and improved measures to help us assess progress and make improvements. Part of the way we will do this is by asking for the views of different people (particularly those who are 'seldom heard', for example, homeless people and those receiving healthcare in prison) about their experiences of being involved and supported to work in partnership with us. We want people to tell us that they have had a positive experience and that what they have done has made a difference.
- champion patient and public participation not only throughout NHS England, but across the whole NHS by demonstrating its power and impact.

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6 Distribution and implementation

- 6.1 This policy will be publicised and made available, together with supporting guidance and other resources (notably the [Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning](#), and the [Transforming Health and Care Guidance](#)), via:
- The [NHS England website](#);
 - The [NHS England intranet](#). Please note this is a NHS staff resource
- 6.2 There will be training for different groups of staff to help familiarise them with the policy, and other supporting documents, as appropriate to their job role. All new starters to NHS England will be made aware of the policy as part of the corporate induction process.
- 6.3 Implementation of the policy will be supported by an action plan, which includes practical measures, such as the [NHS Citizen](#) programme, to facilitate our engagement with patients and the public, including those from seldom-heard groups.

7 Monitoring

- 7.1 Implementation of this policy and the associated action plan will be closely monitored.
- 7.2 There will be on-going engagement with staff and external stakeholders, including patients and the public, about how the policy is working in practice. Consultation will close one year after publication, and a formal review of the policy undertaken. The policy will be revised if necessary by March 2017.

8 Equality and Health Inequalities

- 8.1 This policy forms part of NHS England's commitment to create a positive culture of dignity and respect for all individuals including staff, patients, their families and carers as well as community partners. The intention is to identify, remove or minimise discriminatory practice with regard to the characteristics given protection by the Equality Act 2010 as well as to promote positive practice and value the diversity of all individuals and communities.
- 8.2 An assessment has been completed for this policy in relation to equalities and health inequalities impacts, and evidence is being analysed for a full impact analysis. Patient and public participation will support NHS England in meeting the public sector equality duty and the duty to reduce health inequalities, provided full consideration is given to reaching a diverse range of patients and supporting participation from groups that experience inequalities in health outcomes. Further advice can be obtained from the [Equality & Health Inequalities Unit](#).

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9 Associated documentation

Key related documents include:

- Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning.
- [Transforming Participation in Health and Care](#).
- [The Accessible Information Standard](#).
- Other resources on the [Patient and Public Participation section of the NHS England website](#) and [intranet](#).
- [Planning, assuring and delivering service change for patients](#).
- [NHS England Health Inequalities Legal Duties](#).

10 References

- [National Health Service Act 2006](#) London: Stationery Office.
- [Health and Social Care Act 2012](#): London: Stationery Office.
- [AA1000 Stakeholder Engagement Standard](#). Revision for comment (June 2015).
- [Transforming Participation in Health and Care](#).
- Arnstein, Sherry R. "A Ladder of Citizen Participation," Journal of the American Planning Association, Vol. 35, No 4, July 1969, pp. 216-224.
- InHealth [The Engagement Cycle](#)

Appendix 1: Ladder of Engagement and Participation

The ladder of engagement outlines a variety of forms of engagement and participation. It is to be used as a best practice tool by NHS England staff in a flexible way to ensure appropriate and proportional participation.

The 'Ladder of Engagement and Participation'

There are many different ways in which people might participate in health depending upon their personal circumstances and interest. The 'Ladder of Engagement and Participation' is a widely recognised model for understanding different forms and degrees of patient and public involvement, (based on the work of Sherry Arnstein⁷). Patient and public voice activity on every step of the ladder is valuable, although participation becomes more meaningful at the top of the ladder.

Devolving	Placing decision-making in the hands of the community and individuals. For example, Personal Health Budgets or a community development approach.	Devolving
Collaborating	Working in partnership with communities and patients in each aspect of the decision, including the development of alternatives and the identification of the preferred solution.	Collaborating
Involving	Working directly with communities and patients to ensure that concerns and aspirations are consistently understood and considered. For example, partnership boards, reference groups and service users participating in policy groups.	Involving
Consulting	Obtaining community and individual feedback on analysis, alternatives and / or decisions. For example, surveys, door knocking, citizens' panels and focus groups.	Consulting
Informing	Providing communities and individuals with balanced and objective information to assist them in understanding problems, alternatives, opportunities, solutions. For example, websites, newsletters and press releases.	Informing

Appendix 2: The Engagement Cycle

The Engagement Cycle



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Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning

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Statement of Arrangements and Guidance on Patient and Public Participation in Commissioning

Version number: 6

First published: November 2015

Prepared by: Head of Programme Delivery, Public Participation Team

The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

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1 Introduction

This document should be read alongside the [NHS England Patient and Public Participation Policy](#) which sets out our broad intentions and ambition to strengthen patient and public participation in all aspects of our work.

This document sets out:

- Guidance to commissioners on how to identify when the legal duty to involve the public applies and what action they are required to take.
- Details of our existing processes and arrangements across NHS England which support our duty to involve patients and the public and our key public involvement initiatives.

1.1 Commissioning

A significant part of what we do involves commissioning (specifying, securing and monitoring services) certain NHS services in line with population health and care needs. The process of commissioning is illustrated in Figure 1 below.



Ref: [The Commissioning Handbook](#)

Figure 1 - The Commissioning Cycle

1.2 The duty to involve the public (section 13Q)

Under section 13Q of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012), NHS England has a statutory duty to 'make arrangements' to involve the public in commissioning services for NHS patients. The

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exact wording of section 13Q is shown at [Appendix 1](#), together with information about related legal duties and responsibilities.

The section 13Q duty is aimed at ensuring that NHS England acts fairly in making plans, proposals and decisions in relation to the health services it commissions, where there may be an impact on services. The duty requires NHS England to make arrangements for public involvement in commissioning.

Public involvement in commissioning is about offering people ways to voice their needs and wishes, and to influence plans, proposals and decisions about their NHS services. Patients and the public can often identify innovative, effective and efficient ways of designing and delivering services if given the opportunity to provide meaningful and constructive input.

1.3 Scope

This document sets out NHS England's arrangements for involving the public in the services it commissions.

The services which NHS England currently commissions and to which the section 13Q duty applies are:

- Primary care, including GP, dental, ophthalmic and pharmaceutical services;
- Specialised services, which are typically services commissioned on a national basis for rare conditions, provided in relatively few hospitals and/or accessed by comparatively small numbers of patients. These also include secure mental health services;
- Other specified services, such as:
 - Secondary care dental services;
 - Mental health after-care in certain circumstances;
 - Health and justice healthcare services; and
 - Services for members of the armed forces and their families.
- Some public health services commissioned on behalf of the Secretary of State for Health.

1.4 Who is this document for?

This document is intended to be used by both:

- NHS England staff – who need to understand and comply with these arrangements and
- The public – to understand how NHS England involves the public in its commissioning of services.
- CCGs – for information only, particularly in relation to co-commissioning (see section 7). CCGs are under a separate duty to make arrangements for involving the public in the services they commission.

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1.5 Terminology used in this document

References to 'the Act' are to the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012). References to other legislation are included in full.

Please see the end of this document for a full [glossary of terms](#).

1.6 Further guidance and advice for NHS England staff

There are a range of sources of support on patient and public participation for NHS England commissioners. These include:

- The relevant teams in each of the regional offices, which will have links with local partners, such as CCGs, local authorities and voluntary sector organisations and networks.
- The Public Participation Team in the national support centre – england.engagement@nhs.net or telephone 0113 8250861.
- The Communications Teams in the national support centre.
- The Patient Experience Team in the national support centre.

Members of the public should get in touch with the Customer [Contact Centre](#) in the first instance:

- By telephone: 0300 311 22 33
- Email: england.contactus@nhs.net
- Post: NHS England, PO Box 16738, Redditch, B97 9PT.

Associated documentation is listed in [section 8](#).

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2 When does the section 13Q duty apply?

Commissioners need to identify activities or circumstances to which the section 13Q duty applies and decide whether relevant insight sources and public involvement activity (nationally or locally) are already in place, and whether additional public involvement is required, and if so what this should be.

This involves:

1. Identifying **triggers** (situations in which the section 13Q duty is likely to apply).
2. Making and documenting an **assessment** of whether or not the section 13Q duty applies and if so, what (if any) further action is needed.

Our arrangements set out a framework for a flexible and responsive approach. Many activities and decisions requiring public involvement will happen at a regional, service, or provider level and will necessitate a public involvement exercise in their own right. While there may be little public interest nationally, there could be significant public interest locally.

2.1 Triggers

Commissioners should always consider the benefits of involving the public in their work and seek to take account of feedback from the public about the services which they commission. In some cases, the impact of commissioning activity on services and patients will be so significant and likely that the requirement to involve the public will be obvious. However, in other cases, there will be a need to assess more carefully whether section 13Q applies and, if so, what kind of public involvement is appropriate.

The following list indicates some of the circumstances in which the section 13Q duty is **likely** to apply and there is a need to assess this and determine the appropriate response. As it is not possible to anticipate every such situation, the list is not exhaustive and commissioners should always be alert to other circumstances in which the 13Q duty may apply:

① Examples of possible triggers

Changes to commissioning arrangements

- ✓ The strategic planning of services, for example:
 - Plans to reconfigure or transform services to improve health.
 - Plans in response to the latest Joint Strategic Needs Assessment or Health and Wellbeing Strategy.
- ✓ Developing and considering proposals to change commissioning arrangements, for example: new service specifications, piloting new services or making changes to existing services or service reconfiguration. **Commencing a major procurement process.**

Overview and Scrutiny referral

- ✓ Any instance in which a referral has been made to the local Overview and Scrutiny Committee.

Equality

- ✓ Any instance in which an Equality Impact Assessment is proposed or carried out.

Triggers may be identified at a number of stages throughout a single commissioning process. On each occasion this should prompt a consideration of whether a public involvement exercise is required. However, a new public involvement exercise is not required at every step, so long as existing plans are sufficient to secure the necessary public involvement.

For example...

- ✓ Beginning to develop and consider options for a new service would trigger the public involvement duty under section 13Q, as would developing the final specification, starting a procurement exercise and awarding a contract to the successful bidder. However, plans for involving the public throughout this process can be formulated at the outset. Those plans could be for NHS England to consult the public on a shortlist of options following development by NHS England with stakeholders and representatives. Provided that there is no significant change to proposals following consultation, NHS England can consider the outcome of the initial consultation when developing the final specification, carrying out the procurement and awarding the contract without developing additional involvement plans for those activities. For service change and reconfiguration it will be decided during the assurance process whether public consultation is required. Public involvement should continue throughout the process regardless and the outcome of consultation activities should be referenced in proposals taken forward to decision making.

2.2 Assessment

The four steps in the assessment process are summarised in a flowchart at [Appendix 2](#). The assessment **must be** documented using the **Section 13Q Duty Public Involvement Assessment Form** ([Appendix 4](#)).

Step 1 - Does the activity relate to NHS England's commissioning responsibilities?

For example...

- ✓ A decision in relation to the relocation of a GP practice *does* relate to NHS England commissioning.
- ✓ A decision in relation to the relocation of one of NHS England's administrative offices *does not*.

If **yes**, go to **Step 2**.

If **no**, the section 13Q duty does **not** apply, but you should consider the further guidance on what other matters may need to be considered at the end of this section.

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Step 2 - what type of activity is it?

The scope of the 13Q duty is limited to certain types of commissioning activity. These are:

1. **Planning** – this activity can take place at different levels within NHS England, from the national, strategic level to the local, service level. Under section 13Q NHS England is required to **always** have arrangements in place to involve the public in the planning of its commissioning arrangements, regardless of what the impact upon services such plans would have if they were implemented. **If the activity relates to planning, go directly to step 4.**
2. **Proposals for change** – this activity includes not only the consideration of proposals to change services, but also the development of such proposals. **If the activity relates to proposals for change, go to step 3.**
3. **Operational decisions** – this activity relates to decisions which change or affect the way a service operates. **If the activity relates to operational decisions, go to step 3.**

While the legislation distinguishes between these different types of commissioning activity, as can be seen by the examples below they often overlap and sometimes a plan, proposal or decision made by NHS England can fall into more than one category.

Examples of commissioning activities		
Planning	Proposals for change	Operational decisions
<ul style="list-style-type: none"> The development of a national policy for the commissioning of specialised services. Planning a new out of hours dental service to be commissioned in a particular area in response to increased patient demand in the area. 	<ul style="list-style-type: none"> Development of options for the reconfiguration of primary medical services in a particular area and the subsequent consideration of any developed options or model. 	<ul style="list-style-type: none"> Making changes to the services a provider is required to provide or the locations from which such services are to be provided. The closure of a GP practice for operational reasons.

Step 3 – in respect of proposals for change or operational decisions, would there be an impact on the manner or range of services?

If **yes**, go to step 4.

If **no**, the section 13Q duty does **not** apply, but you should consider the further guidance on what other matters may need to be considered at the end of this section.

An impact on services can arise in two ways:

1. An impact on the manner in which the services are delivered to individuals at their point of delivery (e.g. the transfer of a service to another location); and/or
2. The range of health services available to individuals (e.g. the closure of a service).

The impact on services should be considered from the patient's perspective and not necessarily limited to the clinical services being commissioned. Accessibility, transport links and ambulance availability are all examples of matters that could be significant in considering impact.

Examples of impacts on services	
Impact on services	No impact on services
<ul style="list-style-type: none"> The closure of a GP practice would mean patients having to find a new practice to seek treatment. This would impact upon the way in which services are delivered to patients. The degree of the impact will depend how far individuals will have to travel to access another GP practice as well as any specific care that may have been provided at the practice. In such circumstances it is likely that the public need to be involved in some way. 	<ul style="list-style-type: none"> The retirement of a GP from a practice may mean that patients with a preferred choice of doctor will need to be seen by a different GP. However, this would not typically affect the range of services or the manner of their delivery, in which case public involvement is unlikely to be required. The termination of a GP contract and the award of a new contract to a provider, with no change in the specification of such a contract, would not ordinarily be expected to result in changes to the way that services are delivered to patients or the range of services available. In such circumstances there may be no legal requirement to involve the public.

Step 4 – if public involvement has been identified as a requirement under section 13Q in either step 2 or step 3, review existing arrangements for involving the public in this activity (if any) and, where required, put in place additional arrangements before proceeding (see guidance in [section 6](#)).

Guidance where the section 13Q duty does not apply

If the section 13Q duty does not apply, it should nonetheless be considered whether any previous promises or established practice give rise to a separate duty to consult ([Appendix 1](#)) and whether public involvement could nonetheless be beneficial. This is particularly important where there is likely to be significant public interest or when a promise to consult has been made or a precedent to do so has been set.

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In such a case, it is strongly recommended that the [*Transforming Participation in Health and Care*](#) guidance and related resources are used to identify whether and how to involve patients and the public.

3 What does the section 13Q duty require us to do?

Where it has been identified that the section 13Q duty applies, commissioners should:

- Consider whether there are sources of insight which can be used, such as complaints and regular surveys.
- Consider the adequacy of any existing arrangements for involving the public. These may include corporate infrastructure and key involvement initiatives (see sections 4 and 5).
- Where necessary, put in place additional arrangements to involve the public before proceeding.

3.1 What is public involvement?

The Act is not prescriptive about what constitutes involvement, however it explicitly states that people may be involved ‘*by being consulted, or by being given information, or in other ways.*’ Engagement, consultation, participation and patient voice are all phrases that can be used to describe different types of involvement activity. It is therefore clear that consultation and involvement are not mutually exclusive – rather, consultation is one of many possible types of public involvement that NHS England can carry out to discharge its duty under section 13Q.

Examples of ways to involve patients and the public

- ✓ Letters or emails to affected individuals
- ✓ Newsletters
- ✓ Information on notice boards
- ✓ Suggestion boxes
- ✓ Leaflet drops
- ✓ Dedicated events to enable discussion
- ✓ Online surveys or feedback pages
- ✓ Seeking views at local events or venues e.g. festivals, markets, schools, leisure centres, libraries etc.
- ✓ Working with local voluntary and community sector organisations, Local Healthwatch and the Patient Participation Group (PPG) at GP practices
- ✓ Providing opportunities for the public to meet commissioners.
- ✓ Formal consultations.
- ✓ Social media e.g. Twitter, Facebook
- ✓ Public and patient advisory or reference groups
- ✓ Citizens on governance bodies

3.2 What are the guiding principles in identifying *how* to involve the public?

Where public involvement is required, NHS England has a broad discretion as to *how* it involves the public. However, this is not an absolute discretion: it must ensure that its arrangements are ***fair*** and ***proportionate***.

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Fair

The courts have established guiding principles for what constitutes a fair consultation exercise. These principles (known as the *Gunning* principles) were developed by the courts within the context of what constitutes a fair *consultation* and will not apply to every type of public involvement activity. However, they will still be informative when making plans to involve the public.

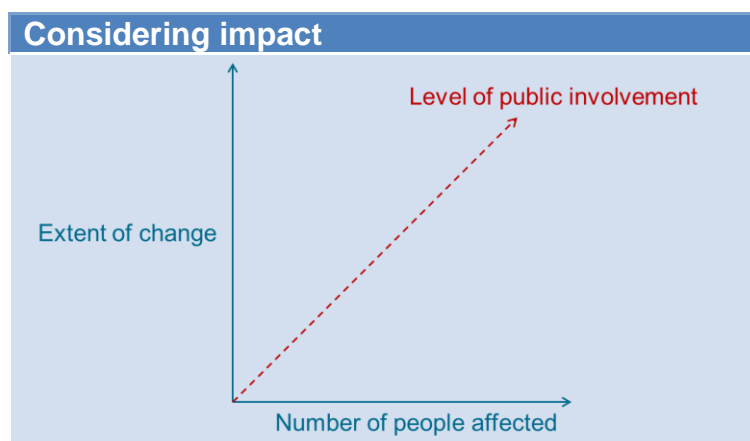
The *Gunning* principles are that the consultation:

- ✓ Takes place at a time when proposals are still at a formative stage. If involvement is to be meaningful, it should take place typically at an early stage. However, it is often permissible to consult on a preferred option or decision in principle, so long as there is a genuine opportunity for the public to influence the final decision.
- ✓ Gives the public sufficient information and reasons for any proposal to allow the public to consider and respond.
- ✓ Allow adequate time for the public to consider and respond before a final decision is made.
- ✓ The product of the public involvement exercise must be conscientiously taken into account in making a final decision.

Proportionate

It is almost always possible to suggest that more can be done or that an exercise can be improved upon, particularly with hindsight. However, NHS England needs to balance its duty to make arrangements to involve the public with its duty to act effectively, efficiently and economically. Therefore, the arrangements for public involvement and activities flowing from those arrangements need to be proportionate.

NHS England will need to consider the impact of its proposals on affected individuals. As a general rule, the greater the extent of changes and number of people affected, the greater the level of activity that is likely to be necessary to achieve an appropriate level of public involvement. However, the nature and extent of public involvement required will always depend on the specific circumstances of an individual commissioning process.



NHS England should also consider the potential impact on other services, which may not be commissioned by NHS England (e.g. ambulance services), and issues for patients beyond the clinical services themselves such as accessibility, transport links and ambulance availability.

❶ For example...

- ✓ A small GP practice in an urban area is likely to close due to the retirement of the lead partner and difficulties relating to the condition of the practice premises. The patient list can be dispersed to a neighbouring GP practice two streets away. The public involvement duty would be engaged, but carrying out an extensive public involvement exercise in relation to the changes may be disproportionate. Local commissioners arrange to write directly to all current patients of the practice informing them of the planned change, and ensure that clear notices are displayed on noticeboards at the surgery and local community venues, and that information is included on the practice website. They talk to the patient participation groups of both surgeries about the impact of the proposed changes and arrange a drop-in session at the practice for patients to find out more. Specific efforts are made to reach those who may be easy to overlook, including seeking advice from the local community and voluntary services about the impact on groups in the local community that experience the greatest inequalities.

3.3 Who does NHS England need to involve?

Where NHS England is carrying out an activity in respect of which the public should be involved, it must involve individuals to whom the services are being or may be provided. The pool of such service users who must be involved will depend on the service in question and the significance of the activity. As well as involving members of the public who are currently service users or patients, it may be helpful to involve carers, members of self-help and support groups, user groups, charities or other representative groups. In some cases, the significance of the decision will mean it is necessary to involve the public as a whole. An example would be any proposals for substantial reconfiguration of health services in a local area.

While the duty on NHS England is to make arrangements to involve individuals to whom the services are being or may be provided, case law has established that in some cases public involvement can take place via representatives. For example, a policy or review group with appropriate expertise and representatives of those affected may be sufficient where direct public involvement is not practicable. Where involvement takes place via representatives, NHS England should try to ensure that they offer a fair representation of the views of those for whom they speak, rather than a narrower or different interest.

However, often the views of whole community cannot be fully represented by a single person or group. In such cases, it will be necessary to provide service users or the public as a whole the opportunity to be involved.

Involvement should be accessible, inclusive and diverse. Particular care should be taken to engage those most significantly affected by the activity, particularly those who may experience a greater impact due to a characteristic which is protected by the Equality Act 2010. Reference should be made to the Equality Act and related

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guidance for further information about protected characteristics and to the [Transforming Participation in Health and Care](#) guidance.

Location, access and demographic issues need to be taken into account, for example, considering how a population in a rural area or how children and young people may be particularly affected by a change to services. These issues also need to be considered when planning participation itself.

① For example...

- ✓ A commissioner is considering closing a small dental practice which will not have an impact on the wider availability of dental services in the area. They may decide to involve just the currently registered patients and their carers from the practice.
- ✓ Based on the evidence in the local Joint Strategic Needs Assessment a commissioner is considering changing the services available in pharmacies across a local area. They decide to involve the general public in considering its proposals.

3.4 When should public involvement take place?

The timing of public involvement is again a matter of broad discretion for NHS England. However, involvement, when it does take place, should meet the requirements of fairness set out above in order to be meaningful.

Involvement should not typically be a stand-alone exercise (e.g. a formal consultation open for 12 weeks). It will generally be part of an ongoing dialogue or take place in stages. A phased approach can often maximise involvement. Commissioners should consider who will be involved, when and how this will take place, and the purpose of engagement. It is good practice to provide regular communications throughout and have a documented engagement plan.

The public does not necessarily need to be involved at the earliest possible opportunity. If involvement takes place too early there may be insufficient information for the public to consider. It will sometimes be appropriate to first develop a proposal, shortlist of options, a preferred option or even a decision in principle. However, involvement should never be left to the last minute.

① For example...

Involvement will rarely be a linear process; it will take place at different points in the commissioning cycle and the public will be involved in different ways, for example:

Involvement in developing options: NHS England uses a wide range of sources to identify the need for change and to develop early thoughts about the range of options available including the JSNA, equality impact assessments, the Health and Wellbeing Strategy, survey and insight data, and information from previous involvement activity. The commissioners also engage with key stakeholders including relevant voluntary sector umbrella bodies, Healthwatch, patient groups, and other relevant charities.

Involvement in refining options: NHS England seeks to build on existing sources of insight information and prior engagement work. Focus groups and public events

are used to co-produce potential options. Participants might include targeted groups of stakeholders such as relevant voluntary sector groups, user forums, interested patient leaders and experts and patient groups. NHS England may also convene a co-production group to support the development and consideration of the options available, including the involvement of people and communities who are often overlooked.

Consulting on a limited number of options: As some of the options proposed will impact on both the nature and location of services NHS England runs a more formal consultation following good practice and Cabinet Office guidelines. This consultation is targeted at the wider public and uses an appropriate and proportionate spectrum of involvement activity to reach the community. More formal consultations will usually last for a minimum of twelve weeks.

Informing: NHS England publishes information about the option it has chosen and how and when this will be implemented in a range of formats and through relevant channels, including the NHS England website, local media, social media and by making contact with relevant community groups and user forums. Specific efforts are made to reach those who may be easy to overlook.

3.5 Can we use existing information on the views and experiences of patients and the public?

As part of the need to act efficiently and proportionately, commissioners should consider whether there are existing arrangements or sources such as complaints and regular surveys, which can be used in order to gain insight into the views the public. These could include NHS England resources, or be external, for example Care Quality Commission (CQC) reviews, academic research and intelligence from NHS bodies, the voluntary sector or local authorities.

In some cases it is possible that an earlier public involvement exercise was sufficient to involve the public in the new plans, proposals or decision in question. However, if that is the case, then NHS England should still carefully consider whether any further public involvement is required, in particular:

- Is the new proposal the same as the one previously considered?
- Did the earlier exercise involve the public in considering the basic features of the proposal now being considered, or was it something significantly different?
- How long ago was the public involvement? Does it remain relevant?
- Who was involved previously? Has there been a significant change in the identity or type of individuals who now need to be involved?
- Did previous involvement fully address the diversity of patients and communities?
- Has NHS England received new information which may require further involvement to enable the public to comment on that new information before the decision is taken?
- Has the context changed due to, for example, a significant development in the local health economy, that affects the proposal or the impact it will have?

① For example...

- ✓ **Example 1:** At a national level, NHS England has consulted and engaged widely on new guidelines for commissioning some types of dental services. This process included a wide range of national and local participation activity and new guidelines have been agreed. In order to implement the national guidelines, local NHS England commissioners need to procure the service to a specification which reflects the new national guidelines. They develop a plan which includes the following: letters to patients, notices in dental practices, meetings with local patient & public voice partners and representatives to ensure they have considered the needs of groups that experience health inequalities, and involvement of patient representatives in the development of the specification and the tendering process.
- ✓ **Example 2:** NHS England is considering reducing the number of GP practices in a local area. A comprehensive review into primary care services in the area was undertaken a year ago and made a number of recommendations. The public were widely involved in this process. However, the population of the local area has changed significantly since this time and there are a number of significant housing developments being built and young families moving into the area. This has both increased patient lists and also changed the nature of services required. Whilst undertaking their 13Q assessment, the commissioners decide to consider the findings of the previous involvement activity but also to undertake new involvement activity to support them to better understand the needs and views of the current population. They also plan public involvement to support the implementation of the recommendations.

3.6 What if a decision needs to be taken urgently?

In an urgent situation, it may be necessary to balance the duty to make arrangements for public involvement in a decision with the public interest in maintaining continuity of care and protecting the health, safety or welfare of patients or staff.

It will only be reasonable to justify carrying out a limited or no public involvement exercise on grounds of urgency when the lack of time was genuinely caused by an urgent development or where there is a genuine risk to the health, safety or welfare of patients or staff. It does not permit NHS England to leave public involvement until the last moment without enough time to carry out a fair and proportionate exercise, when the public could and should have been involved earlier or to a greater extent.

① For example...

- ✓ NHS England has the contractual right to terminate a general dental services contract on patient safety grounds. Unless a new provider is immediately available and able to use the premises, it is inevitable that patients will have to go to another location for consultations and treatment, at least for a temporary period. NHS England's public involvement duty would be engaged in this scenario, but carrying out a detailed public involvement exercise before closing the practice could place patients at risk. It would therefore be sufficient for NHS England to notify all

patients of the situation in this case, even though a more detailed level of public involvement would usually be required for the closure of a dental practice.

3.7 Can we carry out a joint public involvement exercise with another organisation?

Yes – this is encouraged as it will reduce burden on patients and the public and help ensure different public bodies in a locality adopt a ‘joined up’ approach.

Regardless of whether responsibility for public involvement falls on NHS England, another body or is shared, it will often be logical and beneficial for any public involvement exercise to be carried out jointly by NHS England and other bodies, so as to avoid the NHS consulting twice on the same proposals and the confusion to patients and inefficiency that can entail.

NHS England can also request the assistance of providers in informing, reaching out to and engaging with patients where changes to services are proposed. In some circumstances the provider may be under a contractual obligation to co-operate with NHS England in this regard (e.g. where a GP practice is closing and patients need to be informed of this and how to register with a new practice). However, NHS England cannot delegate its responsibility for public involvement to providers and will need to be satisfied that involvement activities have met legal requirements, even if carried out by the provider.

For example...

- ✓ Plans to reconfigure and integrate all forms of health and social care in a locality will require collaboration between a number of commissioners and providers. These typically include NHS England, clinical commissioning groups, local authorities and NHS trusts/foundation trusts. These bodies all have separate but similar obligations to consult or otherwise involve the public. However, as they are all considering the same set of proposals together, they can develop a joint involvement exercise to save time and money and give the public a “one stop shop” for involvement.

3.8 Feeding back the outcome of public involvement activity

The outcome of any consultation or engagement exercise should be fed back to participants. Feedback should include an explanation of how views have been considered and impacted on decisions, as well as the rationale for decisions taken. This important stage is often overlooked but is central to good participation and will encourage further participation.

3.9 Assessing the effectiveness of public involvement exercises

As already set out above, fairness requires that the product of public involvement must be conscientiously taken into account in making a final decision. However, it is also worthwhile taking stock of whether the public involvement exercise, once complete, has been sufficient. If not, it may be appropriate to revisit public involvement or the proposals under consideration before implementing a decision.

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Whether public involvement has been sufficient in any given case will depend upon the circumstances. However, the following are examples of potential issues that may warrant further consideration:

- Where feedback suggests that the needs of a particular group (possibly with a protected characteristic) have not been adequately considered as part of the proposal;
- Where there is an unexpectedly small response from a group that NHS England anticipated would be significantly affected by the proposal;
- Where a lot of feedback queries the same point, suggesting that it has not been clearly conveyed or that consultees lacked sufficient information; or
- If the response to a consultation or attendance at public events has been very poor.

If such issues arise, NHS England should try to understand why this is the case and how they could be addressed. This could include attempting different engagement methods or approaching voluntary and community sector groups for advice on how to reach certain groups.

Ultimately, regardless of whether NHS England decides to carry out further public involvement in response to such issues, it will need to be satisfied that the legal duty has been met before taking a final decision.

4 Corporate infrastructure

NHS England is working to continuously strengthen its corporate infrastructure arrangements for patient and public participation. Existing arrangements include, but are not limited to, those outlined in this section. You can also find further information on the [NHS England website](#).

4.1 Public involvement in governance

➤ Board meetings

- Meetings of the Board of NHS England are held in public, which means that members of the public may attend to observe. They are broadcast live on [NHS England's website](#) and recorded for future viewing online.
- [Copies of the agenda and other papers](#) are published in advance of the Board meeting and the meeting minutes published afterwards.
- Non-executive directors (NEDs) of the Board seek to ensure, through constructive challenge and in other ways, that the interests of patients, taxpayers and the public are represented at Board meetings. The skills, experience and knowledge to represent these interest are an explicit requirement of the NED role at NHS England. Development and support are provided to NEDs, as appropriate. Two-way communication between NEDs and lay representatives on various committees, groups and programme boards is facilitated. This enables lay representatives to have direct access to the Board and enables NEDs to have a 'line of sight' throughout the organisation, providing a valuable source of assurance about the way that the organisation is developing its ways of working and the impact of patient and public participation..
- It is common for the Board at the conclusion of its public business to resolve to into closed session to consider agenda items which are confidential and cannot be discussed in public at the time of the meeting, for example information which is confidential to patients, commercially sensitive or legally privileged. The Board also works together informally between meetings in briefing sessions and developing strategic options for further development by the executive team.

➤ Annual General Meeting

- The [Annual General Meeting \(AGM\)](#) is open to members of the public. It is also broadcast live on NHS England's website and recorded so that it can be viewed at a later date if required.

➤ Committees, groups and programme boards

- Lay people who can bring the perspective of patients and the public will be involved in NHS England activity as appropriate to the requirements of the

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programme. This will include involvement in committees, groups and programme boards, and in developing plans, proposals or decisions which impact on services, nationally, regionally and locally. This will provide assurance that appropriate public involvement is taking place.

4.2 Communication with patients and the public

➤ Communications channels

- NHS England currently communicates with patients and the public in a variety of ways, on a regular basis. More details about our existing communications channels can be found in [Appendix 2](#).

➤ Customer Contact Centre

- We publish our telephone, email and postal addresses on [our website](#) so that the public can contact us with their views, comments, concerns, or to make a formal complaint or enquiry.

➤ Freedom of information

- NHS England is subject to the provisions of the Freedom of Information Act 2000, which promotes transparency and scrutiny by allowing members of the public to request information held by NHS England. The organisation must provide any requested information it holds, subject to the requirements and exemptions set out within the legislation.
- [NHS England's publication scheme](#) signposts individuals to information which is proactively released as and when it becomes available.

4.3 Business planning

- Each year, NHS England publishes a corporate business plan setting out its priorities for the year ahead. The business plan reflects the organisation's broad strategy (the [Five Year Forward View](#)) and particular areas of focus for each Directorate. In addition, the four regions of NHS England produce their own related work plans.
- The business planning process involves consideration of future programmes of work and future resources. All those responsible for business planning at corporate, directorate and regional level are required to:
 - demonstrate how insight gathered from patient and public participation has influenced planning and priorities for the year ahead.
 - set out in an appropriate level of detail how the public will be involved and how this will be funded in relevant future programme(s) of work. If this is not done, programmes may not be approved or funded through the business planning process. See the [Bite-size guide on budgeting for participation](#).

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4.4 Publications Gateway clearance

- NHS England has a Publications Gateway clearance process to assure all national policies, strategies, consultations, publications and external publications to the NHS. This requires confirmation from the Public Participation Team in the national support centre that patients and the public have been involved in the development of the work if relevant and/or that any involvement activity planned is relevant for patients and the public and in line with our responsibilities.

4.5 Reporting and assurance

- In July each year, NHS England publishes an annual report on its work for the previous financial year. The annual report includes an assessment of how effectively NHS England has discharged its statutory duty to involve the public and information on its related statutory duties to have regard to the need to reduce health inequalities and to continuously secure improvement in the quality of health services.
- The Board receives additional reports on patient and public participation activity and outcomes. Reporting (both quantitative and qualitative) is continuously being developed through the Patient and Public Participation Oversight Group to provide assurance to the Board.

5 Involvement initiatives

NHS England's involvement initiatives cover a wide range of activities at different levels. Involvement initiatives may be national or apply to a particular geographical area; they may be temporary or permanent; they may be for the general public or particular groups of people; they may relate to all aspects of NHS England's business or specific programmes of work.

Much of NHS England's involvement work (notably in relation to primary care commissioning) takes place at the local level, in collaboration with local communities and partner organisations such as CCGs and local authorities. Information about local involvement initiatives is available at the local level (generally through CCGs or the regional offices of NHS England through the Customer Contact Centre). The following paragraphs set out the main involvement initiatives at the national level. These initiatives are constantly evolving and the latest information is available on our [our website](#).

5.1 Frameworks for patient and public participation for each of NHS England's commissioning responsibilities

Within **specialised commissioning** patients and carers are involved at almost every level of governance, including on panels for Individual Funding Requests and the Cancer Drugs Fund. A range of stakeholders including patient and the public representatives (both individuals and from the voluntary sector) are involved directly in policy development through the various Clinical Reference Groups.

We hold regular stakeholder engagement sessions to inform our work and when appropriate have undertaken formal public consultations around different work areas which are publicised widely to relevant groups and key voluntary sector partners. Registered stakeholders are kept informed of our work via the Specialised Commissioning Bulletin, the NHS England website or through targeted communications.

Additionally, we have the Patient and Public Participation Assurance Group (PPVAG). The PPVAG maintains oversight of the implementation of the participation model, ensures there is appropriate patient and public participation in decision making and reviews and advises on patient and public participation processes.

For **primary care commissioning**, a framework for public participation is currently being co-produced by NHS England and key organisations representing patients and the public. This framework will identify opportunities for involvement including citizen voice in governance, influence on policy, service redesign and contracting, and assurance. It will also outline roles and responsibilities of different stakeholders, identify key networks, groups and patient insight sources, and take account of how arrangements can be implemented within current resources. A range of guidance, best practice and resources are being developed. The framework will be regularly reviewed to ensure it continues to be fit for purpose based on the experience of implementing it and changes to the policy and commissioning environment.

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In **Health and Justice and Armed Forces** commissioning, NHS England is also working with key partners and voluntary organisations that work in secure environments and with armed forces personnel and their families to co-produce a framework for participation. This will crucially ensure that these ‘seldom heard’ groups are heard and their voice is represented in governance. Most importantly we are working with key voluntary sector organisations to develop the necessary structures to enable us to support direct participation from those people in secure environments and the armed forces’.

Public involvement in our **Public Health** commissioning responsibilities is at an early stage of development. We will be developing our approach alongside our partners at Public Health England, who have primary responsibility in this commissioning area, to ensure a complementary approach.

5.2 NHS Citizen

[NHS Citizen](#) is a programme which is designed to enable patients and the public and NHS England to have a dialogue about issues that matter to them. Through this, people can influence priorities and decision-making, and can hold the organisation to account.

As part of the NHS Citizen design, there is a process to gather and select issues for discussion both online and face to face; selecting those issues of most significance, relevance or interest through an independently selected group of people (citizen’s jury); and working to co-design ways forward for those issues at a national Assembly that brings together patients, carers, advocates, members of the public with the Board and staff of NHS England. In addition to the discussion at this meeting, NHS England will consider and take follow up action as appropriate in response to the issues raised, and provide feedback on this.

Through NHS Citizen, NHS England is also developing:

- A ‘People Bank’, a participation management system which enables people to register and be matched to potential opportunities for getting involved; and
- A ‘Participation Academy’, a host for training and guidance materials to enable more people to develop the skills needed to effectively influence the work of NHS England.

5.3 Reaching different communities

NHS England has a number of public involvement initiatives and partnerships in place to reach out to communities and service users from diverse backgrounds. These seek to ensure that participation approaches and activities are accessible and inclusive and hear the views of groups who may be termed ‘harder to hear’.

➤ Equality Delivery System – EDS2

[The Equality Delivery System](#) (EDS2) is designed to help all NHS organisations, including NHS England, in discussion with local partners - including patients, communities and the workforce - to review and improve their performance for people

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with characteristics protected by the Equality Act 2010. By using EDS2, NHS England will help to deliver on the Public Sector Equality Duty.

➤ **NHS England Youth Forum**

- Recognising the need for different ways to communicate with children and young people and hear their experiences, needs and wishes, NHS England has worked with partner organisations to develop a [Youth Forum](#). This comprises around 20 young people recruited from all over the country and linked in to a Facebook network of hundreds more young people. The Forum works in partnership with NHS England, Public Health England and the Department of Health to improve services for children and young people.

➤ **Voluntary and community sector**

- The voluntary and community sector makes an invaluable contribution to health and care in England. NHS England has a range of partnerships with different organisations at different levels to collaborate on shared priorities.
- Together with the Department of Health and Public Health England, NHS England works with a network of 22 voluntary sector partners. The [strategic partner programme](#) includes organisations from across the breadth of the voluntary sector, enabling reach into different communities, in total over 350,000 individuals and voluntary sector organisations throughout England. The network provides direct input to policy development.

➤ **Healthwatch**

- Healthwatch was created with the purpose of understanding the needs, experiences and concerns of service users and to speak out on their behalf. Established through the Health and Social Care Act 2012, this created a model that operates both locally and nationally.
- Healthwatch England has statutory powers to provide NHS England (and other bodies) with information and advice on:
 - The views of people who use health or social care services and of other members of the public on their needs for and experiences of health and social care services; and
 - The views of local Healthwatch organisations and of individuals on the standard of health and social care services. Local Healthwatch organisations operate across England and work with commissioners and providers in their area, including through the Health and Wellbeing Boards.
- NHS England works closely with [Healthwatch England](#) to ensure that we listen and respond to the views of people about the quality and availability of health and care services.

➤ **Clinical Commissioning Groups (CCG) Lay members**

- NHS England has established a [network for lay members](#) on CCG governing bodies to be involved directly and influence the work of NHS England.
- Through this network, lay members can amplify views and concerns from their locality.

➤ **Networks supporting NHS England to reach diverse communities**

- NHS England has also developed a number of networks specifically to ensure those who experience the greatest health inequalities or poorest health outcomes can be heard e.g. the [learning disability network](#) and the [gender identity network](#).

5.4 Using insight to influence commissioning

NHS England monitors the quality of the services it commissions through feedback from patients and the public gathered in a variety of ways. This feedback is used to influence commissioning and make improvements.

➤ **National patient surveys**

The different mechanisms used to generate this feedback directly to commissioners include national patient surveys such as:

- [GP Patient Survey](#)
- [Inpatient Survey](#)
- [Community Mental Health](#)
- [Accident and Emergency Survey](#)
- [Outpatient Survey](#)
- [Maternity Survey](#)
- [Cancer Patient Experience Survey](#)
- [VOICES survey of bereaved people](#)
- [CQC Children and Young People's Survey](#)
- [Patient Reported Outcome Measures \(PROMs\)](#) - used to calculate the health gains after surgical treatment using pre and post-operative surveys in four specialties.

➤ **Friends and Family Test**

Alongside the national surveys, commissioners can also use the Friends and Family Test (FFT).

FFT is an important feedback tool that supports the fundamental principle that people who use NHS services should have the opportunity to provide feedback on their experience. It asks people if they would recommend the services they have used and offers a range of responses. When combined with supplementary follow-up questions, the FFT provides a mechanism to highlight both good and poor patient

experience. This kind of feedback is vital in transforming NHS services and supporting patient choice.

FFT results data for inpatient, A&E, and maternity services and the staff FFT is [available online](#).

FFT results for GP, mental health, community, outpatient, dental and ambulance (patient transport) is [available online](#).

➤ **Concerns, compliments and complaints received by the Customer Contact Centre**

The Customer Contact Centre is the initial point of contact for patients and their representatives who require information or want to comment on the services we commission.

7 Co-commissioning, delegation, devolution and new models of care

7.1 Co-commissioning

NHS England's co-commissioning programme has seen Clinical Commissioning Groups (CCGs) take on greater responsibility for commissioning primary medical services (i.e. GP services). The scope of co-commissioning may expand over the coming years into wider primary care services (e.g., community pharmacy, dental and eye health services). Any expansion of co-commissioning would be considered with full and proper engagement of the relevant professional groups.

Co-commissioning can take three forms:

- **Greater involvement** in primary care decision making;
- **Joint commissioning** arrangements; or
- **Delegated commissioning** arrangements.

Under **greater involvement**, NHS England and CCGs work together to commission the specified services (currently primary medical services). However, NHS England retains the legal responsibility for commissioning the services and the duty to involve the public. **NHS England will therefore apply the arrangements** set out in this document.

Under **joint commissioning**, NHS England and CCGs establish joint committees to make decisions about primary medical services. NHS England and CCGs have separate but virtually identically worded duties (see section 14Z2 of the Act) to involve the public and these duties will run concurrently. **NHS England will apply the arrangements set out in this document** and CCGs will need to make their own arrangements.

Under **delegated commissioning**, NHS England delegates full responsibility and funding for the commissioning of primary medical services to CCGs. While NHS England retains ultimate liability for the exercise of all of its functions, including those delegated to CCGs, the CCGs are bound by their own public involvement duty in respect of the services they commission (section 14Z2 of the Act). The Delegation Agreement and Terms of Reference make clear that it is the responsibility of CCGs to involve the public in the commissioning of services. **NHS England's arrangements set out in this document will therefore not apply.** NHS England will nonetheless require assurance that the duty to involve the public is being discharged effectively by the CCG as part of the CCG assurance process.

7.2 Other forms of delegation

NHS England may delegate responsibility and funding for commissioning services to other organisations other than through co-commissioning (e.g. local improvement schemes).

The extent to which NHS England retains day-to-day responsibility for making arrangements to involve the public will depend upon the model for delegation used in

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each instance. However, as NHS England retains ultimate liability for the exercise of its functions, it will still need to be satisfied that appropriate arrangements are in place to involve the public, even if it does not make those arrangements itself.

7.3 Devolution

In the Queen's Speech 2015, plans were announced to introduce legislation to provide for the devolution of powers to cities with elected mayors and work has already commenced to achieve the delegation and ultimate devolution of health and social care responsibilities in Greater Manchester.

The extent to which NHS England retains day-to-day responsibility for making arrangements to involve the public will depend upon the model for devolution used in each instance. However, as NHS England retains ultimate liability for the exercise of its functions, it will still need to be satisfied that appropriate arrangements are in place to involve the public, even if it does not make those arrangements itself.

7.4 New models of care

In its *Five Year Forward View* NHS England set out the need to develop new care models for promoting health and wellbeing and supporting the improvement and integration of services. A number of ['vanguard' sites](#) have been chosen and are taking a lead on the development of new care models.

The development of new care models at vanguard sites will involve substantial changes in the way services are delivered to patients. However, due to unique nature of vanguards and the variety of services, commissioners and providers involved, the arrangements for involving the public will be decided at the local, vanguard level.

To any extent that services for which NHS England is primarily responsible for commissioning are affected, NHS England will need to be satisfied that appropriate arrangements are in place to involve the public, even if it does not make those arrangements itself.

8 Associated documentation

Key related documents include:

- Patient and Public Participation Policy
- [Transforming Participation in Health and Care](#)
- [Planning, assuring and delivering service change for patients.](#)
- Resources on the Public Participation section of the NHS England website and, for staff, also on the intranet

Appendix 1: 13Q Legal Duties

Section 13Q of the National Health Service Act 2006

‘(1) This section applies in relation to any health services which are, or are to be, provided pursuant to arrangements made by the Board in the exercise of its functions (“commissioning arrangements”).

(2) The Board must make arrangements to secure that individuals to whom the services are being or may be provided are involved (whether by being consulted or provided with information or in other ways) —

(a) in the planning of the commissioning arrangements by the Board,

(b) in the development and consideration of proposals by the Board for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them, and

(c) in decisions of the Board affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

(3) The reference in subsection (2)(b) to the delivery of services is a reference to their delivery at the point when they are received by users.

(4) This section does not require the Board to make arrangements in relation to matters to which a trust special administrator's report or draft report under section 65F or 65I relates before the Secretary of State is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9) (as the case may be).’

Related legal duties and responsibilities

In addition to the duty to involve the public under section 13Q of the Act, NHS England is under a number of other duties which may overlap, interact or arise separately in a variety of scenarios. This document does not provide detailed guidance on those duties or set out how NHS England plans to discharge them; however, the most relevant duties are summarised below for reference.

Duty to promote involvement of each patient (section 13H of the Act)

NHS England is under a duty to promote the involvement of patients, and their carers and representatives (if any), in decisions which relate to the prevention or diagnosis of illness in the patients or their care or treatment. This duty, under section 13H, is separate to the public involvement duty under section 13Q.

These duties place separate obligations upon NHS England however they regularly overlap and interact with each other. The key difference between the duties is that

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the patient involvement duty (section 13H) relates to involving patients in making shared decisions about their own care, whereas the public involvement duty (section 13Q) relates to involving the public in decisions about the commissioning of services generally.

The patient involvement duty (section 13H) is intended to give effect to the policy of “*no decision about me without me*”. The duty would apply to any decisions at all stages of that individual’s health care, from preventative measures, diagnosis of an illness, and any subsequent care and treatment they receive. Effective involvement of patients in these decisions might include such things as opportunities for patients to participate in treatment decisions in partnership with health professionals, to be supported to make informed decisions about the management of their care and treatment and to discuss opportunities for patients to manage their own condition.

Examples of...	
Patient involvement	Public involvement
<ul style="list-style-type: none"> ✓ Personal health budgets, which allow people living with long term conditions to have greater control over their health. ✓ Shared decision-making and patient decision aids. ✓ Providing support for self-management of conditions. 	<ul style="list-style-type: none"> ✓ Informing the public of a proposal to open a new walk-in centre. ✓ Seeking patients’ views on a change to the opening hours of an out-of-hours dental service. ✓ Consulting the public about plans being developed by NHS England and CCGs to reconfigure and integrate local health services.

There are a number of initiatives which are primarily aimed at discharging the section 13H duty by involving patients in decisions about their own care. However, NHS England can make arrangements to capture feedback from those patient involvement initiatives and use this information to inform its commissioning activities. Such arrangements can enhance public involvement and influence commissioning decisions and therefore also help discharge the public involvement duty (section 13Q).

As this document is focused upon public involvement under section 13Q, it does not set out every initiative to involve patients in their own care. However, where arrangements are in place to use the information from such initiatives to influence decision-making, they are included.

Implied duty to involve the public

While section 13Q sets out an explicit statutory duty for NHS England involve the public in certain circumstances, it may in other circumstances be incumbent upon a public body to involve the public as part its general duty to act fairly. Such circumstances – in which it can be said that there is an “implied duty” to involve the public – have been developed through case law over a number of years.

Acting fairly does not always require involving the public; equally, a lack of involvement on a decision does not automatically render it unfair. However, there

are a number of circumstances in which fairness may require NHS England to consult the public, even if the section 13Q duty is not engaged. These include:

- ✓ **Promises** – consultations are often promised in order to allay public concerns about a proposed course of action that has not previously been consulted upon. Fairness typically requires that such promises are kept.
- ✓ **Past practice** – sometimes a well-established and consistent past practice of consulting the public in respect of particular decisions can give rise to the expectation that such practice will continue in future. Fairness typically requires that such expectations are met.

The section 13Q duty is deliberately aimed at ensuring the public are involved in the most important plans, proposals and decisions taken when commissioning services. The circumstances in which section 13Q is not engaged, but an implied duty to involve the public in commissioning is, are therefore likely to be rare.

Equality and health inequalities duties

The Equality Act 2010 prohibits unlawful discrimination in the provision of services on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These are the ‘protected characteristics’.

As well as these prohibitions against unlawful discrimination the Equality Act 2010 requires NHS England to have ‘*due regard*’ to the need to:

- Eliminate discrimination that is unlawful under the Equality Act 2010;
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This is known as the ‘*public sector equality duty*’ (section 149 of the Equality Act 2010).

NHS England is also under a separate statutory duty to have regard to the need to reduce health inequalities between patients in access to health services and the outcomes achieved (section 13G).

To help comply with the above duties, it is often necessary to carry out equality and health inequality analyses and consult and engage with all individuals across the protected characteristics. It is therefore common for proposals to engage the public sector equality duty, the duty to reduce health inequalities and the duty to make arrangements to involve the public. Public involvement that is accessible, inclusive and diverse can help to achieve all of these duties at the same time.

Overview and scrutiny

Local authorities have a role in reviewing and scrutinising matters relating to the planning, provision and operation of health services in their local area. NHS England is one of a number of NHS bodies which may commission services in a particular area.

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NHS England must consult the local authority where it is considering any proposal for a substantial development or variation of the health service in the area. The local authority may scrutinise such proposals and make reports and recommendations to NHS England and the Secretary of State for Health.

Legislation provides for exemptions from the duty to consult in certain circumstances, for example where the decision must be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff.

As part of the overview and scrutiny process, the local authority will invite comment from interested parties and take into account relevant information available, including that from Local Healthwatch. The overview and scrutiny process can therefore enhance public involvement in NHS England's commissioning arrangements.

The threshold for reporting proposals to the local authority under the overview and scrutiny process is higher than that for arranging to involve the public under section 13Q. However, the duties frequently overlap, particularly where significant changes to the configuration of local health services are under consideration

For further information, see Part 4 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

The Compact

The Compact is a voluntary agreement which supports partnership working between public bodies and the voluntary and community sector. It provides a framework for partnership working to enable different sector working together to agree the fundamental principles underpinning the relationship. As an Arm's Length Body to Government, NHS England is a default signatory to the Compact and thus should consider its principles and undertakings throughout its business.

Appendix 2: Communications Channels

➤ Public newsletter

- [In Touch](#) is a newsletter for members of the public which enables people to be informed about the latest NHS England news, as well as highlighting opportunities to get involved in NHS England's work through events, consultations, representation on advisory groups and more.
- *In Touch* informs people about plans, programmes and decision making in NHS England and provides the opportunity to become more directly involved.

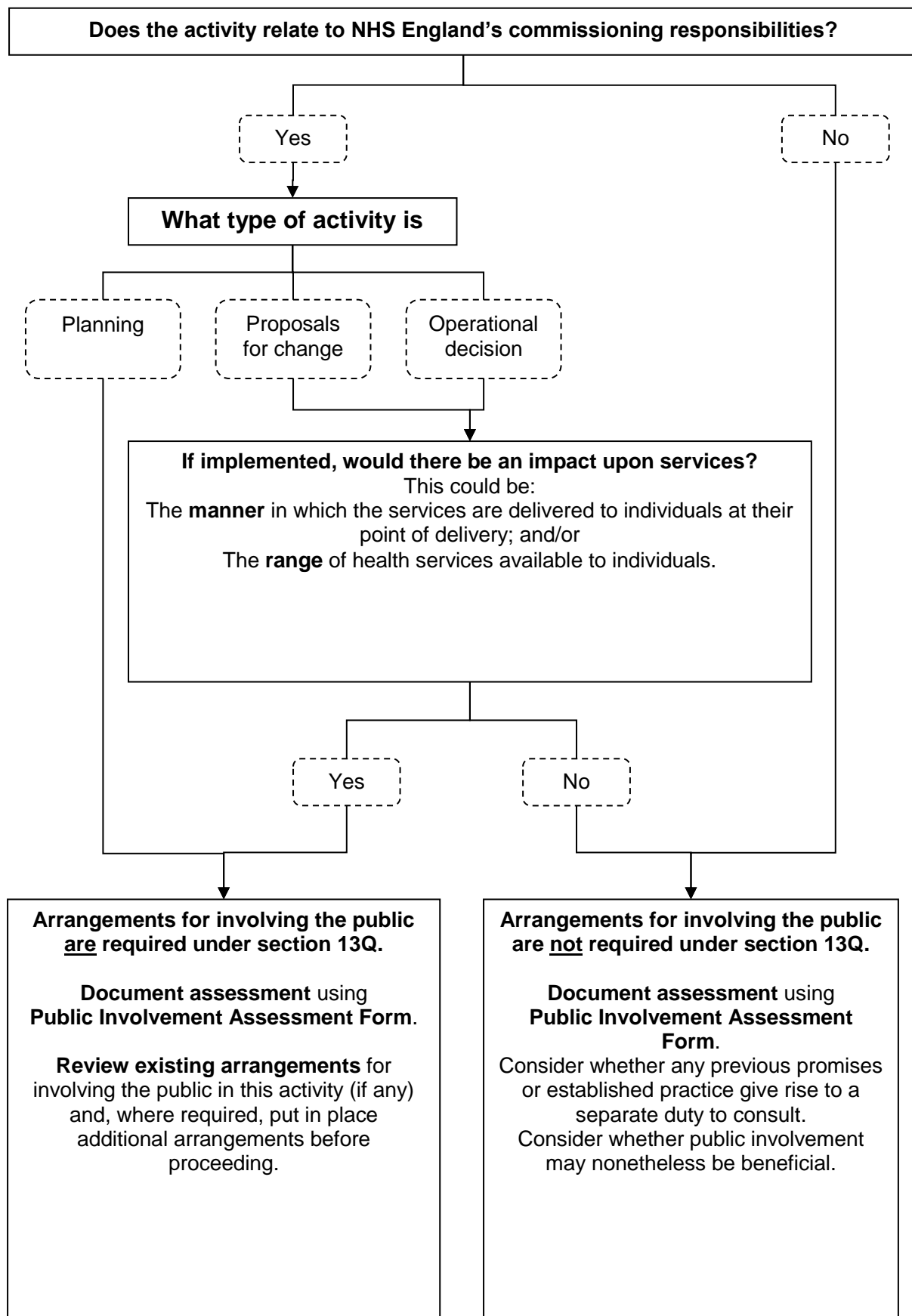
➤ The NHS England website

- [Our website](#) is a constantly updated source of news about plans, programmes of work and opportunities to get involved. It allows users to easily converse with us by directly commenting on articles and blogs.
- A wide range of public consultations and surveys on both local and national issues are regularly published via the [NHS England Consultation Hub](#).

➤ Social media

- Our Twitter account (@NHSEngland) actively shares news about plans, programmes of work and opportunities to get involved, including the facilitation of real time tweet chats with stakeholders.
- Our YouTube channel gives access to videos which explain our work in an engaging way and showcase examples of participation.

Appendix 3: Public Involvement Assessment Process



Appendix 4:

Section 13Q Duty Public Involvement Assessment Form

Step 1 - Details of the commissioning activity

Describe the commissioning activity:

Step 2 – Identify type of commissioning activity

Type of activity: ☐ Planning ☐ Proposals for change ☐ Operational decision

Step 3 – In respect of proposals for change or operational decisions, assess the impact on service users

If the plans, proposals or decisions are implemented, would there be:

- An impact on the manner in which the services are delivered to the individuals at the point when they are received by users? ☐ Yes ☐ No
- An impact on the range of health services available to users? ☐ Yes ☐ No

Explain why you have answered yes or no to the above:

Step 4 – section 13Q duty

Does the section 13Q duty apply to the activity? ☐ Yes ☐ No

Explain why you have answered yes or no to the above:

If yes,

(a) identify any existing arrangements to involve the public which are already in place (national or local involvement initiatives):

(b) whether it is considered necessary to make further arrangements for this activity and if so what these will be:

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Confirm whether a further assessment needs to be carried out in future and, if so, when or in what circumstances that will be carried out:

Name:

Job Title:

Date:

If you are unsure as to the answer to any of these questions, seek advice from the relevant team in your region or the Public Participation Team in the national support centre.

Completed assessment forms must be retained and will be required for reporting and monitoring purposes.

Appendix 5: Case Study

Case Study

Note: this is a fictional case study and is for illustrative purposes only. The public involvement required in any given case will always depend on the circumstances.

Anytown has a local population of 50,000 and is served by 10 GP practices. One such practice is Bloggs & Doe Practice, in North Anytown. The practice holds a general medical services contract with NHS England and has a relatively small practice list size of 2,000 patients. The contract is held by Dr J Bloggs and Dr J Doe in partnership. The practice is located in a residential area with generally good public transport links to other parts of Anytown, however the nearest bus stop to the practice is a ½ mile away. Some registered patients live in the immediate vicinity but most travel to the practice. There is also a large cohort of unregistered patients in the area who tend to rely upon walk-in centres and the A&E at Anytown Hospital. In April 2013, Dr Bloggs decides to retire and leaves the partnership. However, he nominates Dr Doe to continue to hold the contract as a sole contractor. This is agreed by NHS England and the contract is varied accordingly. However, all requirements under the contract remain the same and Dr Doe decides to employ an additional salaried GP to ensure continuity of the level of services.

Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation by using the Public Involvement Assessment flowchart. The decision to agree to the change is identified as an operational decision, but one that will not have any impact on the range of services available or the manner of their delivery. Therefore, no arrangements for public involvement are required. This assessment is recorded using section 13Q Duty Public Involvement Assessment Form.
- ✓ However, in the interests of patients, NHS England requests that the practice notifies all patients who had nominated Dr Bloggs as a preferred practitioner of the change and of the on-going arrangements for their care and to also notify the practice's Patient Participation Group of the changes.

Dr Doe now holds the GMS contract with NHS England as a sole practitioner. However, in August 2013, Dr Doe passes away unexpectedly. Under the terms of the contract, it will terminate within 7 days.

NHS England holds an urgent meeting to decide what to do. Two options are being considered:

1. Entering into a temporary 6 month contract with an interim provider in order to ensure continuity of services, until a final decision is made;
2. Not replacing the contract and “dispensing” patients to other practices in Anytown which have indicated that they have capacity for additional patients.

Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation using the **Public Involvement Assessment flowchart**. It is identified

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that it is considering proposals for changes in its commissioning arrangements. Proposal 1 (temporary contract) is identified as not having an impact upon services, if implemented. However, Proposal 2 (dispersal) is identified as having a significant impact on services if implemented, as patients will have to register and travel to other practices. Therefore, it is identified that arrangements for public involvement are required. This assessment is documented using the **Section 13Q Duty Public Involvement Assessment Form**.

- ✓ NHS England considers what is fair and proportionate in the circumstances. Proposal 2 presents a high likelihood of a significant impact on services. However, due to the urgency of the situation, NHS England needs to balance the duty to make arrangements with the duty to maintain continuity of care and protect the health and safety of patients. NHS England therefore decides it is not proportionate to seek to engage with all patients of the practice. However, it seeks views and insight from Local Healthwatch, Anytown CCG and relevant Patient Participation Groups.
- ✓ Ultimately, it is decided that Proposal 1 is preferable, in order to ensure continuity of services and allow a fuller public involvement exercise prior to making a final decision about the long-term future of the practice.
- ✓ An urgent market-testing exercise and liaison with the Local Medical Committee identifies only one suitable provider. A temporary 6 month contract is awarded and it is agreed that existing practice staff will transfer to the interim provider.
- ✓ The decision to award the temporary contract in and of itself is an operational decision, but does not affect the manner or range of services provided to patients so does not ultimately have an impact upon services. Therefore, further arrangements are not required, but NHS England liaises with the interim provider to ensure that all patients are notified of the new contractor.

In September 2013, NHS England identifies that along with the above temporary contract, two other GP contracts in Anytown with relatively small patient lists are due to expire on 1 April 2014. NHS England decides to carry out a strategic review of the needs of the local population and begins the process as laid out in "Planning and delivering service change for patients". No proposals are formally tabled at this stage, but neither are any options ruled out. There is the potential for reorganisation of the provision of GP services in Anytown. A shortlist of proposals will be developed as part of this strategic review.

☞ Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation by using the **Public Involvement Assessment flowchart**. It is identified that it is involved in the strategic planning of local health services. It is also developing proposals, which may include changes to commissioning arrangements which would have an impact on services. It is therefore necessary to have arrangements in place for public involvement. This assessment is documented using the **Section 13Q Duty Public Involvement Assessment Form**.
- ✓ NHS England therefore decides to carry out the following activities:
 - Consult the Joint Strategic Needs Assessment prepared by the Health and Wellbeing Board

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- Consult with the Health and Wellbeing Board, Local Healthwatch, the Local Medical Committee, Anytown CCG, the Overview and Scrutiny Committee and relevant Patient Participation Groups.
- Review insight gathered through the Friends and Family Test, GP Survey, NHS Choices and other intelligence held by NHS England.
- ✓ At this stage, NHS England is not formally considering proposals for change or making a final decision, so while it is recognised that a wider public involvement exercise is likely to be required in due course, it decides to postpone this exercise until proposals have been developed further. This will help ensure that involvement happens at a time when proposals are sufficiently detailed to provide the public with sufficient information and reasons for proposals to enable a meaningful engagement. However, engagement will happen at a formative stage before a final decision is taken.

NHS England carefully considers the insight gathered from the above review and, in consultation with the above stakeholders, develops a shortlist of proposals which are felt to be realistic, feasible options for meeting the needs of the local population. These are:

1. Re-commission the three GP contracts as they are; or
2. Do not re-commission the three GP contracts, and instead commission a single larger GP contract in premises currently being developed in the same building as a walk-in and minor injuries centre commissioned by the CCG, which has excellent transport links. This is NHS England's preferred option.

NHS England learns that the CCG is also reviewing the provision of walk-in/minor injury centres in the area and is proposing to carry out its own engagement exercise.

Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation by using the **Public Involvement Assessment flowchart**. It identifies that Proposal 1 has no impact on services. However, Proposal 2 has a significant impact upon the provision of services. It is therefore necessary to have arrangements in place for public involvement. This assessment is documented using the **Section 13Q Duty Public Involvement Assessment Form**.
- ✓ NHS England considers what is fair and proportionate in the circumstances. There is a high likelihood of significant impact on services and ample time to carry out a wide and meaningful public engagement exercise before making a final decision. It is also considered possible, and most straightforward for patients, to carry out the engagement exercise in conjunction with the CCG in order to provide the public with a "one stop shop" for expressing their views.
- ✓ NHS England considers the **Transforming Participation in Health and Care** guidance to assist in identifying ways in which the public can be involved.
- ✓ NHS England draws up an engagement strategy.
- ✓ NHS England decides to carry out the following activities:
 - Carry out a public engagement exercise in conjunction with the CCG, to seek patient's views on the proposals. The exercise will allow anyone to

express their views by completing a questionnaire online or in writing. Sufficient information and reasons will be provided to allow the public to properly consider and respond to the proposals. The exercise will be publicised by notifying stakeholders (including voluntary, charity and representative organisations), writing to directly affected patients, placing information in the relevant GP practices, social media and by placing information on the NHS England website. Dedicated public events will also be held to explain the proposals, answer questions and seek feedback. The exercise will allow the public 8 weeks to provide their feedback so as to provide adequate time to respond.

- Engaging with local voluntary sector groups including local Healthwatch to seek the views of groups who may be affected, and also those whose views may not be heard.
- Carry out an Equality Impact Assessment.
- Consult with the Overview and Scrutiny Committee.

Before taking a decision, NHS England conscientiously takes into account the product of all of the above activities. While a wide range of views are received, there is broad support for Proposal 2 due to the accessibility and range of services available at the health centre. The equality impact assessment is also supportive of Proposal 2, as is the Overview and Scrutiny Committee.

NHS England decides not to renew the three GP contracts and proceeds with the decision to instead procure a single, larger GP contract at the health centre. The existing contractors are notified and formal procurement exercise is carried out, through which a successful bidder is identified. The outcome of the decision is announced.

Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation by using the **Public Involvement Assessment flowchart**. NHS England identifies that the above decision is an operational decision which has an impact upon services. This assessment is documented using the **Section 13Q Duty Public Involvement Assessment Form**.
- ✓ However, it has already made arrangements to involve the public and has taken the insight gathered into account in making this decision. Similarly, the following procurement exercise is based upon such insight. Therefore, while arrangements are required, the existing arrangements are sufficient to involve the public in this decision.

On 1 March 2014, it becomes apparent that the new premises for the new GP practice will not be available until 1 July 2014. The existing contractors agree to continue to provide services from the existing practices until then and the new contractor agrees to postpone the opening of the practice. NHS England therefore decides to postpone the transfer of services to the new GP practice in the health centre.

☞ Arrangements for public involvement...

- ✓ NHS England considers whether the section 13Q duty would apply to this situation by using the **Public Involvement Assessment flowchart**. NHS England identifies the above as an operational decision which has an impact upon services, as it affects the manner in which services will be provided between 1 April and 1 July 2014. Therefore, arrangements to involve the public are required. This assessment is documented using the **Section 13Q Duty Public Involvement Assessment Form**.
- ✓ As this decision is consistent with its previous decision and public involvement exercise, it is considered fair and proportionate not to carry out any further engagement exercise and to rely upon the existing arrangements. However, patients are notified, the delay is publicised and all stakeholders are informed.

On 1 April 2015, NHS England delegates responsibility for commissioning primary medical services to Anytown CCG under the co-commissioning programme. The CCG wishes to carry out a further review of all services it commissions in order to consider how the Five Year Forward View can be advanced in Anytown.

☞ Arrangements for public involvement...

- ✓ The CCG is proposing the strategic review of services in Anytown. While NHS England retains ultimate liability for the commissioning of primary medical services, the responsibility for doing so has been delegated to the CCG. Therefore, the public involvement duty falls primarily upon the CCG in these circumstances and the CCG will need to make its own arrangements for public involvement. However, NHS England may liaise with the CCG to share its insight gathered from previous exercises.

Glossary

13Q: 13Q is the section of the NHS Act 2006 (amended by the Health and Social Care Act 2012) which outlines NHS England's duty to make arrangements to ensure that the public are involved in commissioning activity.

Commissioners: in this document this refers to NHS England commissioning teams.

Commissioning: the process of specifying, securing and monitoring services to meet people's needs (Ref: Audit Commission). The [commissioning cycle](#) is a useful tool outlining the commissioning process.

Coproduction: The design and delivery of services by citizens and professionals in equal partnership. Source: [Co- production Practitioners Network](#) (NESTA).

Corporate infrastructure: Corporate infrastructure refers to existing processes and arrangements across NHS England which support our duty to involve patients and the public, as set out in section 4.

Insight: Understanding gained from the evidence from patient experience and engagement in order to make services better and inform decision-making.

Involvement initiatives: NHS England programmes that support public involvement in the planning, development and consideration of policy, as set out in section 5.

Patient: Someone who is receiving medical care or treatment, whether in a health or care setting (such as a hospital or care home) or at home. Sometimes used interchangeably with 'service user', which is the generally preferred term in the social care sector.

Planning and delivering service change for patients: a guidance document produced by NHS England to assist commissioners conducting service reconfiguration. Outlines the four tests of service change which all reconfigurations must be assured against.

Primary Care: Primary care services are GP practices, dental practices, high street and local pharmacies and high street optometrists.

Public: for the purposes of the section 13Q duty, this means the individuals to whom the services are being or may be provided. What this means in practice will depend on the context and type of service.

Specialised services: Specialised services are those provided in relatively few hospitals, accessed by comparatively small numbers of patients but with catchment populations of usually more than one million. These services tend to be located in specialised hospital trusts that can recruit a team of staff with the appropriate expertise and enable them to develop their skills. Specialised services account for approximately 14% of the total NHS budget. The [commissioning of specialised services](#) is the responsibility of NHS England.

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Transforming Participation in Health and Care: Transforming Participation in Health and Care is statutory guidance published by NHS England in September 2013. It provides guidance to NHS England and clinical commissioning groups about how they should discharge their public involvement duties.

Trigger: Activities which have been identified as particularly likely to engage the 13Q duty, or indicate that changes are being considered that are likely to trigger the duty.

Voluntary and community sector (VCS): VCS is a common umbrella term for organisations known variously as charities, third sector organisations, not-for-profit organisations, community groups, social enterprises, civil society organisations and non-governmental organisations.