NHS South Tyneside Clinical Commissioning Group

NHS Sunderland Clinical Commissioning Group

CATEGORY OF PAPER	✓
For Decision	
For Assurance	✓
For information only	

Agenda item:	4.1
Enclosure number:	**1**

GOVERNING BODIES MEETING IN COMMON

21 February 2018

Report Title:	Phase 1 Path to Excellence Consultation Assurance Report

Purpose of report

To provide the governing bodies of NHS South Tyneside CCG and NHS Sunderland CCG with an assurance report of the communications and engagement strategy delivery for the consultation process.

Key points

The report sets out the NHS legal and policy context for significant service change in relation to public consultation and engagement, and the strategies, governance and subsequent activities that have been undertaken in order to ensure a robust process for the Path to Excellence consultation in line with this context.

NHS North of England Commissioning Support (NECS) was engaged by the NHS South Tyneside and Sunderland Partnership to provide strategic advice and operational delivery for a programme of engagement and consultation to support the Path to Excellence NHS reform programme. The South Tyneside and Sunderland Partnership is made up of the following four organisations:

- City Hospitals Sunderland NHS Foundation Trust
- South Tyneside NHS Foundation Trust
- NHS South Tyneside Clinical Commissioning Group
- NHS Sunderland Clinical Commissioning Group

The report provides an overview of the communications and engagement strategy and activities undertaken, as well as the governance and partnership arrangements established to deliver the consultation programme.

The report also outlines the two distinct phases of pre-engagement and subsequent formal public consultation. It demonstrates the insights gained from the pre-engagement phase and how these influenced the development of credible options for service change. The options were presented and open to influence during the public consultation period.

Risks and issues

An issues document was published in November 2016 which set the context as to why changes were needed and helped provide a basis for public discussion. The document is available on the Path to Excellence website and can be found via the following link issues document

Assurances

The report demonstrates:

- How adjustments to the consultation process were made, in line with consultations being a continuous dynamic dialogue and a self-correcting process
- How targeted stakeholder engagement was conducted, in particular in relation to statutory duties to consult with overview and scrutiny committees
- How equality analysis and equality monitoring were conducted in relation to consultation and the activities carried out in order to ensure groups with protected characteristics have been involved in the process
- How learning from the consultation process will be carried forward and built upon in order to enhance future phases of significant service change

In addition, the Consultation Institute undertook an independent quality assurance review of the process. At the mid-term position in August 2017, the Consultation Institute review concluded that the Path to Excellence consultation process was on track for a 'best practice' certification.

Feedback from the Consultation Institute has stated that it was satisfied the partnership had addressed areas highlighted in the pre-consultation review such as governance, engagement with MPs, equality analysis for consultation activity, website refinement, plans for wider staff and clinical engagement and travel and transport impact.

At the pre-decision making position, the Consultation Institute verbally confirmed a final 'best practice' certification would be pending subject to how the final decision-making is concluded. A copy of the Consultation Institute mid-term review quality assurance feedback is included at appendices 8a, 8b and 8c.

Recommendation/Action Required

The governing bodies of South Tyneside and Sunderland CCGs are asked to formally endorse the communications and engagement activity undertaken for the consultation process for phase 1 of the Path to Excellence programme.

Sponsor/approving directors	M Brown, Director of Operations, NHS South Tyneside CCG S Watson, Director of Contracting and Informatics, NHS Sunderland CCG
Reviewed by	D Cornell, Head of Corporate Affairs, NHS Sunderland CCG
Report author	C Latta, Senior Communications and Engagement Lead, North of England Commissioning Support

Relevant legal/statutory issues

NHS Act 2006 (As Amended by Health and Social Care Act 2012); NHS Constitution; Equality Act 2010; The Gunning Principles; NHS Mandate 2013-2015 ('the four tests');NHS England guidance

Equality analysis completed	**Yes**	✓	**No**		**N/A**	
Quality impact assessment	**Yes**	✓	**No**		**N/A**	

undertaken						
Key implications						
Are additional resources required?	Yes – the required resources been identified for each option for obstetrics and gynaecology, paediatrics and stroke services in a separate decision-making report.					
Has there been appropriate clinical engagement?	Yes – as part of the consultation process					
Has there been/or does there need to be any patient and public involvement?	Yes – as part of the consultation process					
Has there been member practice and/or other stakeholder engagement if needed?	Yes – as part of the consultation process					

NHS
South Tyneside and Sunderland
NHS partnership

The path to excellence

Phase 1:

Consultation Assurance Report

Path to Excellence - a report of communications and engagement strategy delivery for the consultation process assurance

Contents

1. Introduction

This paper sets out the NHS legal and policy context for significant service change in relation to public consultation and engagement, and the strategies, governance and subsequent activities that have been undertaken in order to ensure a robust process for the Path to Excellence consultation in line with this context. The NHS legal and policy context is set out in appendix 1.

The report provides an overview of how the communications and engagement expertise were deployed, how the governance and partnership arrangements were established to deliver the programme of consultation as well as clear rationales for the activities undertaken.

The report also outlines the two distinct phases of pre-engagement and subsequent formal public consultation and how the insights gained from the pre-engagement phase influenced the development of credible options for service change. These options were then presented and open to influence during the public consultation.

The report also demonstrates the following:

- How adjustments to the consultation process were made, in line with consultations being a continuous dynamic dialogue and a self-correcting process

- How targeted stakeholder engagement was conducted, in particular in relation to statutory duties to consult with overview and scrutiny committees, and how key stakeholders such as hospital have been updated

- How equality analysis and equality monitoring were conducted in relation to consultation and the activities carried out in order to ensure groups with protected characteristics have been involved in the process

- How learning from this consultation process will be carried forward and built upon in order to enhance future phases of significant service change.

This assurance paper supports the consultation feedback report which is the output of the strategies highlighted in this paper.

2. Background to the Path to Excellence consultation

NHS South Tyneside and Sunderland partnership organisations engaged the NHS North of England Commissioning Support (NECS) to provide expert strategic advice and operational delivery for a programme of engagement and consultation to support the Path to Excellence NHS reform programme.

The South Tyneside and Sunderland partnership (the partnership) is made up of the following four organisations:

- City Hospitals Sunderland NHS Foundation Trust
- South Tyneside NHS Foundation Trust
- NHS South Tyneside Clinical Commissioning Group
- NHS Sunderland Clinical Commissioning Group

NECS has significant experience in providing end to end service transformation and public consultation, and adopt a continuous improvement approach to constantly learn and refine activity. The NECS team has strong links with communications professionals across the NHS nationally and are able to draw upon those networks and experiences to bring that learning locally. This has been a strong theme of the Path to Excellence programme and is in line with the principle that consultations are a 'continuous dynamic dialogue' and a self-correcting process.

This allows organisations that are consulting with the public to respond to what is heard about the process during the consultation period and to make appropriate adjustments.

2.1 The Consultation Institute

NECS also has a strategic partnership with the independent Consultation Institute which provides quality assurance reviews of the consultation process. The Institute also provides external expertise, up to date advice on emerging case law and an assessment on the robustness of the consultation process to provide third party assurance and credibility to NHS organisations and external stakeholders that good practice is being adopted.

It must be noted that this is an independent process and the Consultation Institute observes at key check points and will not provide quality assurances on consultations unless they deem these to 'good' or 'best' practice.

2.2 NHS England Assurance Framework

A key requirement for NHS service change is to meet the NHS assurance framework, planning, assuring and delivering service change for patients. In meeting the assurance framework, this provides a robust planning process and NHS local system assurance.

The framework sets out that 'significant service change' in the NHS must be compliant with specific statute on public consultation, case law, and NHS policy around involving patients and the public in NHS changes (appendix 1).

2.3 Key documents

The consultation strategy and subsequent activity and resources were benchmarked against the resources and budget made available in 'Manchester for Health Devo, the Cumbria Success Regime' and the 'Durham and Tees Better Health Programme'. It included the communications and engagement expertise, experience and skill mix required and budget recommendations to deliver a safe[1] engagement and consultation process.

A communications and engagement positioning paper was produced in summer 2016 which provided a high-level overview of NHS legal and policy context for significant service change. This allowed the NHS partners to consider the risks and mitigations involved for a programme of pre-engagement and consultation.

The paper provided the basis of the communications and engagement strategy for the programme and also provided assurance to the clinical services review group, the boards of both trusts and, in particular, to the governing bodies of the two clinical commissioning groups that there was a robust programme of engagement, communications and consultation in place.

In turn, this also provided assurance to external stakeholders and partners such as the two local Healthwatch organisations, and the Joint Health Overview and Scrutiny Committee, both of whom have an overview role with regards to NHS changes.

The Path to Excellence issues document was also published which sets out the overarching case for change and helped provide context and narrative for the

[1] No successful legal challenge, no successful referral to the Secretary of State for Health and subsequent intervention by the Independent Reconfiguration Panel and delay to the implementation of service changes and damage to stakeholder relationships

pre-engagement phase. This document was shared widely and formed the basis of a core presentation that was delivered by key senior NHS leaders to different stakeholders and interest groups.

The original timescales were changed which was due to the number of clinical services areas under review; the capacity of the clinical teams to carry out the work; and the programme to carry out the subsequence assurance and full business case development. The delay to the start of the consultation was agreed by the Joint Health Overview and Scrutiny Committee.

The second consultation start date of May was also delayed in direct consequence of the calling of a snap general election for May 2017. This meant that NHS bodies were unable to carry out a public consultation in the pre-election period, as set out in the Cabinet Office guidance (known as purdah). The formal public consultation period was able to start following the end of purdah on 5 July 2017 and was planned to take place over 14 and a half weeks.

3. Engagement and consultation governance

3.1 Consultation governance group

In order to ensure good processes were put in place and adhered to, a consultation governance group was established to oversee the development and implementation of the consultation strategy and related consultation dialogue activity with the public and stakeholders. The consultation governance group oversight included:

- Compliance with legal duties, local and national policy, guidance and mandated requirements
- Identification and mitigation of risks related to the consultation
- Overview of communications and engagement strategy development and implementation
- Dialogue communications and engagement methodology with key stakeholders
- Equality and travel impact analysis and assurance
- Sign off of key documents including the pre consultation business case for change and consultation publications.

The programme governance group terms of reference are included at appendix 2.

3.2 Communications and public engagement task and finish group

A communications and engagement task and finish group was established to provide operational and tactical support. This included members of Healthwatch, trust patient involvement staff, programme staff, CCG commissioning managers and NECS subject experts.

The group delivered focused task and finish work on the following areas:

- Agreement of key lines of enquiry for pre-engagement activity
- Development of surveys and discussions guides
- Input into communications plans for engagement promotion
- Use of plain language and links to other sources of advice and support including volunteers for interviews and events
- Review of key documents including the main consultation document, summaries, pathway diagrams, event guides etc
- Suggestions for engagement and consultation methods including recommendations for training and support
- Provided local knowledge to support equality work and links to community and voluntary sector groups
- Consideration of feedback from key stakeholders to inform planning, for example Joint Health Overview and Scrutiny elected members, campaign groups etc
- Acted as a critical friend to the programme
- Liaison with the Consultation Institute when conducting the quality assurance reviews.

The work of this group was extremely positive and its input invaluable to ensure the consultation has been wide ranging, high quality, open and taking different views and experiences into account. The group will continue to oversee the updated communications and engagement strategy for phase two, as well as make key recommendations for how learnings from phase one can be incorporated to ensure continuous improvement. Further information about the identification of these issues is contained in section 13. The communications and public engagement group terms of reference is included at appendix 3.

4. Engagement and consultation methodology

4.1 Pre-engagement (listening) phase methodology

The pre-engagement phase, often referred to as the listening phase, took place between September 2016 and January 2017. A communications plan was developed and the objectives of the plan were to:

- Socialise the issues around why changes were needed with key stakeholders, partners and the public
- Collect patient experience and feedback on the clinical specialities in order to inform the options development being carried out by the clinical services review group and small design teams.

An issues document was published in November 2016 which set the context for why changes needed to be made and to help provide a basis for public discussion.

The document was provided in printed format and also published on the dedicated website. This key document was supported with a presentation pack to use at events and to share online.

Members of the programme group attended 18 different public events between September 2016 and January 2017 and presented to approximately 447 people. These events included local area committees and forums, community and voluntary sector events where the programme and issues document was an agenda item.

There was strong agreement from the members of the communications and engagement task and finish group that effort and resources in this phase should be used to target those people who had experienced the services under review. The engagement methods used focused on those who had been in receipt of services at both trusts since November 2014 (the previous two years) and the programme was able to directly target those groups via different engagement methodologies.

This included:

- Stroke patients and their carers
- Mothers who had given birth in South Tyneside or Sunderland
- Parents planning to have a baby in the next two years
- Gynaecology patients
- Parents or carers of urgent or emergency paediatric patients.

4.2 Tactical Delivery

The tactical engagement delivery was decided after the key demographic data for the target groups of patients was analysed in order to ascertain the most appropriate engagement method.

This informed the development of an engagement and communications plan for each specialty and included publicity and promotional activity relevant to each target group (in line with the MOSAIC segmentation tool) to raise awareness of

the opportunity for those with experiences of the local services to give their views. For example, targeting of parents of young children via social media for an online survey (younger groups more likely to use smart phones and social media); and the direct mailing of a paper survey to stroke survivors and their carers (older groups with a preference for paper formats).

In addition to reviewing the demographic profiles for each speciality, a desk review was conducted of all existing local, regional, national and internationally available insight and patient experience work for each clinical speciality.

In line with best practice, this was carried out in order to frame the local engagement research methodology and ensure previous work was not reinvented to continue to build a robust insight knowledge base.

The two main methods for this engagement research phase included surveys, either by direct mailing with a free post return or online targeting via digital advertising and social media, and face to face questionnaires being carried out on hospital wards and out-patient clinics in the hospitals by trust patient experience staff and volunteers.

In order to ensure quality assurance, surveys and questions were benchmarked against national surveys conducted by the NHS or special interest groups, in order to ensure relevancy and good practice. All final versions were agreed by the group and signed off by the lead medical director for the programme.

During this phase, there was also a dedicated event with local community and voluntary sector organisations to brief them on the issues, explain the engagement and future consultation process and gain support and involvement to engage with service users to provide the opportunity to give their views. This was particularly in relation to equality impact and ensuring the process could capture the views of people with protected characteristics.

An analytics report of activity is included at appendix 4.

4.3 Information from the listening phase

A full report, building upon the desk reviews and including the local engagement and research activity, was produced for the clinical services review group and sessions took place to present the feedback to key clinicians involved in the small clinical design teams.

This provided patient insight for the teams to assist with options development and clinical design, in particular in being mindful of ensuring options were

credible, robust and presented to the public at a formative stage and were open to public influence through the process of public consultation in line with Gunning principle one[2].

The feedback full report was also published online, shared with key stakeholders and presented to the Joint Health Overview and Scrutiny Committee.

The key high-level summary findings are detailed below and a copy of the published full review report is available here.

Stroke

- There were high levels of satisfaction reported by local patients
- Keeping services local and having all services centralised in one location were seen as equally important to patients
- Where improvements could be made, they related to communications with health professionals and increased support from specialist teams.

Maternity (obstetrics)

- Many patients were satisfied with their care
- Having a choice of where to give birth where possible and having a consultant and midwife in the same location were both important to patients
- Where improvements could be made, they included better facilities for partners to stay in hospital, being able to see the same health professional and improved staffing in antenatal clinics to reduce waiting times.

Women's healthcare (gynaecology)

- Staff were praised for their professionalism and kindness
- Receiving high quality care provided by a specialist is more important to patients, less important is having emergency gynaecology services close to home
- Where improvements could be made, they included waiting times for referrals, on the day appointments, post-operative care and communication.

Urgent and emergency paediatrics

- There were high levels of satisfaction with services
- Receiving safe, high quality care was considered more important to patients than having an emergency paediatric unit close to home

[2] Detailed in appendix 1

- Where improvements could be made they included waiting times for appointments and improved facilities for parents and carers in hospital with their child.

5. How engagement phase feedback influenced options development

5.1 Stroke

A number of factors from the insight feedback influenced the potential reconfiguration solutions but those factors relating to getting care in the right place had the greatest influence.

These included that a lower proportion of South Tyneside patients indicated they were admitted at the correct time and only two thirds of respondents from South Tyneside reported that they were admitted to a specialist stroke unit.

In addition most inpatients surveyed (across both units) said it was very important that they received their care in a specialist unit. The clinical design team felt that their preferred solution of consolidating inpatient care at Sunderland Royal Hospital would allow them to meet patient expectations and also improve patient care.

5.2 Maternity (obstetrics) and women's healthcare (gynaecology)

A number of factors from the insight feedback work influenced the potential maternity (obstetrics) and women's healthcare (gynaecology) options, including the importance of choice. Also the reported factors of having consultant and midwife care in the same location together with proximity of the service when deciding where to give birth were also important.

The clinical design team felt that the two options proposed would offer differing choices that reflected important factors for women within the workforce and affordability challenges whilst still delivering the required quality improvements. One option was to co-locate consultant and midwifery care and a second option included the retention of a local delivery choice in South Tyneside.

The ability of birthing partners to stay with women in hospital was also considered given the mixed feedback from women on their postnatal care, with less South Tyneside than Sunderland women able to benefit from this. Suggested improvements to services shared by the women surveyed and interviewed were considered by the clinical review team.

The suggestion for greater midwifery consistency throughout the maternity pathway was considered with an exploration of an integrated, case-loading-type service model which would enable midwives to support the same women through and beyond birth. This option was discounted due to its unaffordability as increased midwifery staffing levels would be required.

Feedback around the quality of postnatal care and a reported perception of overstretched ward staff, which impacted on care satisfaction levels at both sites, was also considered as part of the workforce analysis.

Given that proximity to maternity (obstetrics) services, the required travelling distance to potentially different delivery sites and transport issues were a common concern, maternity services were included in the travel and transport impact assessment (TTIA) as part of the pre-consultation business case for change.

This was echoed by feedback from previous gynaecology patients who voiced concerns as to how they would travel to a different hospital for treatment. Specific travel and transport analysis for gynaecology patients was therefore carried as part of the TTIA.

Important factors from the pre-engagement feedback considered by the maternity (obstetrics) and women's healthcare (gynaecology) clinical design team included the perceived long wait for women's healthcare (gynaecology) care for 15% of those surveyed; 35% of women who said they would have travelled to a different hospital to receive treatment sooner; and also 38% of women who would have preferred to have waited and have their procedure carried out at their local hospital.

Survey respondents perceived that high quality, safe care from specialists and seeing the correct specialist who can deal with illnesses were more important than having an emergency women's healthcare (gynaecology) unit close to home (85% and 77%, compared to 42%).

5.3 Urgent and emergency paediatrics

The development of the paediatric options was also informed by the insight gained from pre-engagement activities. An important factor informing the options development was parental feedback that seeing the correct specialist who can deal with their child's illness was more important than having an emergency paediatric unit close to home (76%, 80% compared to 52% respectively).

Another significant influencing factor was that over half of parents presenting with a poorly child at the emergency department (52%) had tried to access a GP or call NHS 111 prior to attending at hospital. This feedback, combined with further analysis of the nature of emergency department attendances, resulted in the incorporating of a nurse-led paediatric minor illness/injury facility at South Tyneside within the full consolidation option.

6. Consultation phase communications and marketing strategy

An underpinning communications and engagement strategy was developed for the consultation phase and shared with the Joint Health Overview and Scrutiny Committee. The objectives were to:

- Effectively engage the local population, partners and other stakeholders
- Give the local population, partners and stakeholders the opportunity to consider and comment on the scenarios for new models of acute care services
- Use the comments and feedback from the local population, partners and stakeholders to inform consideration by the CCGs and providers on the needs of the population
- Inform CCG commissioning responsibilities in relation to the services under review and inform providers in the delivery of those services
- Ensure that the consultation is accessible to local people, patients, partners and key stakeholders, that they are aware of the survey and events and have the opportunity to participate fully, should the wish to do so.

Communications activity included social media, digital marketing, a dedicated stakeholder bulletin, staff communications, media releases to support promotion of the consultation. Analysis of this activity is included at appendix 5.

6.1 Consultation phase methodology – July to October 2017

The communications task and finish group recommended an integrated mixed of consultation methodology to build upon the plans developed in the pre-engagement phase. The specific purpose of this was to ensure compliance with the Gunning Principles[3] and ensure opportunities for the public to influence the outcome of the consultation.

Because of the change in timescales and a delay due to the general election, the group recommended that the consultation period ran for 14 and a half weeks, from July 5 to October 152017 to take into account the summer

[3] Detailed in appendix 1

holidays. This was also to ensure there was ‘adequate time for the proposals and issues to be considered and responded to’ as per Gunning Principle three. This timescale was supported by the Joint Health Overview and Scrutiny Committee.

In particular both the governance and the communications groups were mindful that there were three large areas of clinical speciality under review. Learning from other NHS consultations across the country of a similar size had shown that often one clinical speciality dominated the debate so there was a need to ensure all specialties received due consideration.

Also it was acknowledged by the group that the issues were complex and every effort should be made to make information as easily accessible and understandable as possible. This would mean different types of information being available for different people and ensure there were sufficient reasons provided for ‘intelligent consideration’ as per Gunning Principle two.

To satisfy this, a publication scheme was published on the website and included:

- The full pre-consultation business case for change and all appendices (technical NHS business document)
- The public facing consultation document: a summary of the above
- The summary consultation document: a summary of the public facing consultation document
- The slide pack of the consultation issues
- Full baseline travel and transport impact reports
- Service specific travel and transport impact reports
- The public facing summary of the baseline impact report
- Integrated health, quality and inequality impact assessments

An easy read version of the consultation document was also produced although this was delayed due to issues with the service provider. However it was available for use in focus groups with people with learning disabilities in September 2017. As part of continuous improvement for phase two, a learning disability charity has been invited to work with the programme to develop a protocol for easy read information.

6.2 Adjustments – publication scheme

As issues and questions were raised during the public consultation, questions and answer sheets were produced along with key fact documents for each clinical specialty. These were published and promoted on the website and made available at public events.

6.3 Public events

Eleven public events were booked and promoted two weeks in advance of the start of the consultation. Participants were asked to book in advance which could be done online via the website, by telephone, email or social media.

Events were planned to ensure adherence to Gunning Principle two and there were opportunities for consideration of the issues, dialogue and feedback as well as question and answers.

Pre-booking was also used to support event planning and ensure appropriate staffing for each event. For every eight participants, it was planned to have one trained table facilitator and one table scribe. This was to ensure the best possible environment for participants to express their views and for those views to be captured and analysed to influence the consultation outcome as per Gunning principle four.

It should be noted that there was vocal opposition to the style of meetings by some members of the public who did not wish to book in advance and did not like the style of meetings organised. Their preference was to have question and answer style events only.

All event verbatim feedback was published on the website within seven working days of the events in order for participants and others to view the comments made at each event.

Staff working at the public events had received facilitation training as part of the programme, which was delivered in partnership with experts from the Consultation Institute, again in order to provide a good environment on tables for all participants to express their views.

In line with best practice, staff working at the events received an event pre-brief document and were asked to arrive early to be briefed in advance of the event and stay behind afterwards to take part in a debrief. Doing this was extremely valuable as key learnings were taken forward into subsequent events and staff were able to share their experiences in order to make improvements to provide the best safe environment for people to participate.

Development sessions also took place with key clinical staff who presented at the events. These were designed to support staff who were leading public events of this nature for the first time. More of this support will be offered in phase two.

Different types of events were planned and structured in a particular way to allow opportunity for the consideration of the proposals, issues, dialogue and response. These were:

- Launch events – the first opportunity for the public to hear the proposals, a presentation on all the specialities and opportunity for questions and answers
- Formal public discussion events – round table discussions to allow consideration of the issues and dialogue, presentation on all proposals, time for questions and answers
- Subject specific deliberative events – dedicated events on stroke, maternity and paediatrics, allowing more time for consideration of the issues and dialogue in order to ensure one subject did not dominate.

All event participants were asked to fill out a specific event evaluation form, which included feedback on the event itself and a request for key data monitoring information in order to assess the demographics of participants to assist with meeting equality duties. These evaluation forms, along with event staff debrief sessions, allowed the opportunity to adjust the public events.

Over 19 events were held in total, with 443 attendees who signed in and a total of 144 event feedback forms filled out.

6.4 Adjustments - public event

Formal discussion events were originally planned to run for two hours, but after participant feedback these were extended to two and a half hours to allow more time for discussion.

Some members of the public highlighted on the feedback forms that they would prefer not to sit with NHS staff in attendance. To respond to this, tables were allocated to public and staff separately. However, some staff and members of the public did not want this so the facility to mix the tables as well was offered.

Questions were themed on a display board as there were many similar questions asked and participants were able to view them in order to gain a balance of time during the events for discussion and questions and answers.

An additional eight events were arranged for September and October 2017 in response to particular requests for additional question and answer style sessions.

There was also recognition that whilst maternity (obstetrics) and paediatrics were closely associated specialties, the subjects were too large to be discussed together and therefore merited standalone dedicated events.

It should be noted that whilst there was some vocal opposition from members of the public to the deliberative style of events and a request for more question and answer style events, the additional events were poorly attended.

6.5 Adjustments - Travel and transport events

In the pre-engagement period, from November 2016 to March 2017, a number of activities were carried out to develop how the issues relating to travel and transport could be understood.

At an early stage travel and transport was identified as a key issue. As a result, dedicated travel and transport events were planned – one for the public that allowed the feedback to be considered at a second event for stakeholders. The feedback helped to identify the risks in relation to travel and transport and what might be needed to mitigate some of these.

Dedicated sessions also meant that transport issues were recognised as a major concern but did not dominate all other events allowing time for the proposals on all clinical specialities to have due consideration.

The stakeholder event was attended by travel and transport organisations, bus providers, councils and third sector organisations. All issues and concerns, as well as comments and ideas for solutions, were collated and were extremely helpful in enabling wider discussion with those organisations directly involved in travel and transport. A working group was established to take these issues forward and two key task and finish groups have been agreed as part of this.

6.6 Appointment of independent analysists

Social Marketing Partners (SMP) were appointed to provide an independent analysis of consultation feedback in line with best practice and ensure public confidence in the feedback report.

The partnership appointed SMP through an NHS tendering process, using best practice guidance for the procurement.

SMP engaged local partners and local authority scrutiny committee members in a workshop to set the scope of the quantitative work, including online/print survey and street survey interviews.

6.7 Surveys, focus groups and submissions

6.7.1 Consultation survey

The survey was made available online and in paper format (with freepost return) and provided an easily accessible way for people to give their views. SMP, who has expertise in complex survey design and is registered with relevant professional bodies, supported the survey development and conducted independent analysis for all the consultation engagement methods.

Access to the online survey was a key feature of publicity and promotion and paper versions were distributed. There were 496 completed responses received (after data cleansing).

6.7.2 On-street survey

A shorter 'on street' version of the survey was issued to allow a demographic sample of the population to give their views and provide a robust sample of opinion on the key issues. There were 805 responses received (after data cleansing).

6.7.3 Focus groups targeting equality and protected groups

An offer was made to local community and voluntary group organisations to recruit and run focus groups and submit a report in return for a small payment. This was in recognition of the community and voluntary sector's ability to reach further into communities than NHS organisations.

A total of 32 groups took place, with 324 participants and 135 monitoring forms being received. Further information about this activity is included in section eight of this report.

6.7.4 Submissions received from groups, teams and individuals

Organisation and groups were also targeted and encouraged to make their own submission during the consultation. A letter was circulated from the two CCG chief officers (as accountable officers) encouraging partners and stakeholders to feedback their views.

In total 57 submissions to the consultation were received from the following groups:

- Health scrutiny and health watch organisations
- NHS organisations

- VCS organisations – including national organisations
- Patients and public
- NHS staff groups including governors
- Trade unions and staff groups
- Elected representatives, members of parliament and political parties.

6.8 Adjustment - direct mailing surveys

In order to support a continuous dialogue and demonstrate a clear link from the pre-engagement phase of activity, and adjustment to the original consultation activity was made.

Updated surveys containing questions relating to the options were sent to participants with lived experiences of the services under review. In line with best practice, a reminder letter to non-respondents was also issued after two weeks in order to maximise returns.

There were 141 maternity (obstetrics) returns, 81 for stroke and 102 for children and young people services. The statistical report on total feedback numbers is detailed at appendix 6.

6.9 Benchmarking response numbers against other NHS consultations

Response rates were benchmarked against comparative NHS consultations in order to give a sense of scale and proportion. Information provided by the Consultation Institute noted that all sector consultations achieving higher than a 1% response rate were considered a 'good' response. The average response rate for UK public consultations currently stands at 0.7%.

A similar consultation to the Path to Excellence was conducted by NHS Calderdale Clinical Commissioning Group and NHS Greater Huddersfield Clinical Commissioning Group and attracted similar levels of public interest and scrutiny, achieving a response rate of 0.1%.

Greater Manchester's Healthier Together consultation in 2014 attracted a response rate of 0.9% of the population and was commended as "the largest public response to a regional consultation about health services conducted in England in the last decade."

The percentages were calculated based on the population of Sunderland and South Tyneside combined and not on the number of respondents to each individual methodology.

Overall the whole engagement reach was 0.56% of the South Tyneside and Sunderland population. The individual demographics reflect what proportion of the Sunderland and South Tyneside population was reached.

While statistical analysis of the numbers of people who responded was important to capture, it should be noted that the depth of qualitative response is valuable in consultation programmes as it provides feedback to support Gunning principle four 'where decision makers conscientiously take into account public feedback in making their decision'.

The Path to Excellence programme has drawn upon robust methods of social research as consultation and engagement methodologies where appropriate to provide a best practice approach. However, consultation is not an academic research project but more a targeted continuous dialogue with communities who are most affected by potential changes. The process aims to ensure that they have the information, time for consideration and clear ways to give their views, with a particular focus on collecting depth qualitative feedback to give the richness of insight to support decision makers and inform their final decisions.

7. Targeted stakeholder engagement

7.1 Consultation with the South Tyneside and Sunderland Joint Overview and Scrutiny Committee

NHS partners are mindful of their statutory duties to engage with health overview and scrutiny committees and elected members and respect this is how NHS organisations are locally democratically accountable. Section 244 of the NHS Act 2006 sets out the duty to consult with local scrutiny committees on matters of NHS significant variation of services and NHS consultation (see appendix 1).

From April 2016, South Tyneside and Sunderland hospital trusts began a formal discussion with the two separate health overview and scrutiny committees around the formation of the partnership and subsequent Path to Excellence programme.

The partnership made a formal request to the local authorities that the formation of a joint overview committee should be considered under section 30 of the local authority health scrutiny guidance.

A good working relationship was established between the partnership and the two scrutiny officers in each local authority area to support a two way flow of

information and ensure the NHS partners met their legal duties under section 244 of the NHS Act 2006.

Attendance and updates to scrutiny and a 'gathering' of elected health overview and scrutiny members prior to the formal ratification of a Joint Health Overview and Scrutiny Committee (JHOSC) took place on:

- 13 April 2016
- 14 September 2016
- 8 November 2016

Attendance and updates to the formal JHOSC established from January 2017 took place on:

- 30 January 2017
- 7 March 2017
- 17 July 2017
- 1 August 2017
- 21 September 2017
- 10 October 2017
- 12 December 2017
- 8 January 2018

Agendas and papers for all JHOSC in 2017 are available here

Along with formal meetings, there were also been briefing sessions held with the two JHOSC chairs and NHS accountable officers at regular intervals. This allowed more informal discussions and information sharing.

At an early stage, the partnership presented the NHS legal and policy context for major service change to elected members to highlight the NHS consultation duties and outline the issues driving changes and those clinical specialties and services under review.

In particular, the issues around stroke service vulnerability were raised by the partnership in September 2016. Elected members supported a temporary change to the service meaning it would be delivered from Sunderland Royal Hospital in the interim but would be subject to the future consultation process.

The partnership funded an elected member development session on NHS consultation legal and policy issues by the Consultation Institute. The session was run by an institute director and was well received by elected members, who in particular appreciated the learning around the Gunning principles and relevant case law.

JHOSC members were also invited to take part in the appointment of a travel and transport company to carry out the travel analysis. Elected members asked for field-testing of the report and some got involved in carrying out the testing. Members were also involved in a question scoping session with the independent company who are carrying out the consultation responses analysis.

Throughout the JHOSC meetings, there were ongoing questions from elected members and provision of information from the partnership in response. In particular, JHOSC members received information on, provided feedback and influence or made specific requests on the following:

- Feedback on initial issues document prior to publication in pre-engagement phase
- Feedback on the pre-engagement phase methods prior to mobilisation
- Request for NHS representatives to attend local area committees in the pre-engagement phase incorporated into the planning
- Feedback on the pre-engagement phase insight report used to inform option development
- Feedback on consultation activity methodology – including venues for public meetings
- Request for the field-testing transport impact report and to take part in testing
- Request for dedicated meeting with key paediatric staff and NHS managers when concerns about staff involvement in the small design teams and option development were raised.

Support was also provided for lead specialist and senior clinicians from NHS clinical networks to attend JHOSC to provide independent clinical views on the options.

A dedicated briefing session for members on the safety of freestanding midwifery-led units by the regional maternity system lead consultant took place and a visit to a successful free standing maternity-led unit (FMLU) is being organised. This was in direct response to a request from JHOSC members to obtain better information about the safety of midwifery-led care.

The partnership also attended County Durham Health Overview and Scrutiny committee during the public consultation period to present the case for change and then in January 2018 to present consultation feedback findings.

7.2 Engagement with Healthwatch organisations

Both South Tyneside and Sunderland Healthwatch organisations have attended the communications and engagement task and finish group. They provided robust positive challenge, suggestions and ideas to contribute to a

good overall engagement and consultation process. This was in line with their statutory role as a consumer voice for health and social care.

Healthwatch contributions included:

- Suggestion for an extended consultation period to take account of summer holidays
- Care pathway diagrams in consultation documents to help show which parts of each service were being reviewed
- Sense checks of all written publications for readability and plain language
- Reviews of surveys and discussion guides
- Supported the VCS engagement and equality work
- Contribution to the scope of the travel and transport procurement
- Supported travel and transport journey field testing

It is to be noted that whilst Healthwatch organisations were involved in this group, the terms of reference highlighted their statutory role and their independence was retained.

South Tyneside Healthwatch board also requested a dedicated briefing on the consultation programme as did the newly appointed chair of Sunderland Healthwatch.

Healthwatch members attended a wide range of public events, supported event facilitation where appropriate and also regularly attended the scrutiny sessions.

7.3 Engagement with interest groups and trades unions

Efforts have been made to engage with special interest groups such as Save South Tyneside Hospital campaign group, the Public Services Alliance (PSA), Unison and the Royal College of Nurses.

Meetings have taken place with ‘Save South Tyneside Hospital’ and the trusts’ chief executive, along with an open offer for campaign group leaders to contact the programme leads to discuss their concerns.

Easy access to all publication scheme materials has also been provided including printed copies of the full case for change document, and large numbers of printed copies of the consultation document.

A petition has been included as part of the campaign group’s submission and this has been verified.

Meetings have also take place with regional Unison officers to support better staff engagement and their input was welcomed. This has been used to inform

the updated communications and engagement strategy for phase 2 of the programme.

7.4 Engagement with Members of Parliament

Each NHS partner has on-going relationships with local MPs and accountable officers have been provided with key updates and information. An open offer of one to one meetings was also made and MPs took the opportunity to attend a special session of the JHOSC to express their views on the proposals.

7.5 Engagement with other NHS bodies

Work has taken place to engage with NHS regional clinical networks, many of whom have provided responses to the consultation process. Responses were received from:

- Neighbouring clinical commissioning groups and foundation trusts
- Child Health Network, NHS England
- Gateshead Health NHS Foundation Trust
- Maternity Clinical Advisory Group, NHS England
- Newcastle upon Tyne Hospitals NHS Foundation Trust
- North of England Clinical Networks
- Northern Neonatal Transport Service (NNeTS)
- Screening and Immunisation
- Northumberland, Tyne and Wear and Durham Local Maternity System Board
- North East Ambulance Service (NEAS)

7.6 Engagement with GPs

Clinical commissioning groups (CCGs) are member organisations of general practices and each CCG constitution sets out the role practices have within their respective organisations. South Tyneside and Sunderland CCGs have updated their local GP communities around the on-going programme via mechanisms such as regular ‘time in time out’ development sessions, council of practices meetings, regular communications briefings and bulletins. The programme medical director has also led engagement with both the British Medical Association and local medical committees.

7.7 Engagement with Trust staff

A programme of clinical service reviews started across South Tyneside District Hospital (STDH) and Sunderland Royal Hospital (SRH) in 2016. These reviews involved clinical leaders from the onset from both hospitals, working together in small design teams to discuss how services should be delivered in the future.

These clinical design teams, which included doctors, nurses, midwives and therapists, led the development of the proposed options which were formally consulted upon in relation to stroke, maternity (obstetrics) and women's healthcare (gynaecology) and urgent and emergency paediatrics.

Prior to the launch of the formal public consultation on 5 July, meetings were held with wider staff in each of these clinical areas to ensure they were fully briefed on the potential future options.

During the formal consultation period, both STDH and SRH openly encouraged active participation of staff and made every effort to encourage staff to input their views as part the formal consultation process. There were regular communications directly from the chief executive of both hospitals and through the internal 'team brief' processes.

In July 2017, as part of the hospitals' regular quarterly staff briefings, information about the consultation and potential options was shared and discussed with staff in both STDH and SRH. A total of 197 trust staff attended these summer briefing sessions which were followed up by a detailed question and answer document, circulated to all staff across both hospitals to openly share feedback on the questions raised during the briefing sessions. The programme of staff engagement was supported by dedicated intranet pages and social media activity.

During September and October 2017, 12 clinically-led staff consultation sessions took place across both hospitals giving staff the opportunity to have in-depth discussions with clinical leaders, share their views on the potential future options and put forward any other ideas for consideration. These sessions were deliberately organised after the school holidays to ensure as many participants as possible and a total of 174 staff attended these sessions as follows:

- Stroke services - 47
- Maternity (obstetrics) and women's healthcare (gynaecology) - 71
- Urgent and emergency paediatrics - 56

Some staff groups indicated that they had some possible alternative models or suggestions so an offer of support was made to help with data or analysis around these. Staff were encouraged to get in touch with the programme management team to ensure ideas were contributed in the consultation time-period. All feedback gained from staff was shared with the CCGs for inclusion in the independent analysis of consultation feedback.

8. Review of compliance with Equality Act and Public Sector Equality Duty

The Path to Excellence plans are subject to a rigorous NHS assurance process which aims to eliminate discrimination, promote equality of opportunity and ensure that, wherever possible, services are provided in ways which might reduce health inequalities.

As part of this assurance process, integrated impact assessments (IIAs) were conducted in relation to the future options for stroke services, maternity (obstetric) and women's healthcare (gynaecology) services and urgent and emergency paediatrics services. These IIAs identified groups which could be vulnerable to the proposals and the aspects of the services which could reduce or deepen health inequalities.

The assurance process requires appropriate engagement with the identified groups who work with people who may face barriers to taking part in this consultation. It provides a meaningful opportunity for people who may be more impacted by any potential change to consider and feedback on the various issues and proposed changes.

The programme invited local third sector voluntary and community groups or organisations to hold focus groups or an event in South Tyneside and Sunderland to support consultation with different vulnerable groups in relation to specific or different issues.

8.1 Review of compliance with Equality Act and Public Sector Equality Duty

The NHS has a duty to meet its public sector equality duty, as defined by S.149 of the Equality Act 2010.

The Equality Act 2010 applies to all organisations that provide a service to the public or a section of the public (service providers). It also applies to anyone who sells goods or provides facilities. It applies to all our services, whether or not a charge is made for them.

The Act protects people from discrimination on the basis of a 'protected characteristic'. The relevant characteristics for services and public functions are:

- disability
- gender reassignment
- pregnancy and maternity

- race
- religion or belief
- sex
- sexual orientation
- marriage and civil partnership (named purposely in the equality act 2010. This protected characteristic was linked to the now retired sex discrimination act where people were protected on their marital status)
- age (under the Equality Act from April 2012 until then the Employment Equality (Age) Regulations 2006 still applied)

8.2 The Equality Act General Duties

The general and specific equality duties (detailed in appendix 1) and set out in section 149 of the Equality Act at:
http://www.legislation.gov.uk/ukpga/2010/15/contents.

In exercising its functions, the NHS must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, and actively promote equality
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

As part of the pre-consultation business case, a fully integrated equality, quality and health impact assessment was carried out.

In addition to this, a health equalities analysis was conducted on the consultation process itself. The health inequalities impact assessment (HIIA) is a tool used during NHS service reform planning to assess the potential of any policy, plan, proposal or decision to reduce or increase health inequalities. Many policies have the potential to impact on health inequalities and this is critical information that the NHS will need to consider in making their final decision. A summary of this HIIA is included at appendix 7, table A.

A point to note is that key data monitoring information was requested at all opportunities consistently across all engagement methods. However whilst it is a public sector equality duty to ask for data monitoring information, it is an individuals' choice whether to decide to provide it.

A report on equality data monitoring is included in the final feedback analysis.

8.3 Activity to engage with protected groups and those identified in the equality analysis work

As part of this assurance process, integrated impact assessments (IIAs) were conducted in relation to the future options for stroke services, maternity (obstetric) and women's healthcare (gynaecology) services and urgent and emergency paediatrics services. These IIAs identified groups which could be vulnerable to the proposals and the aspects of the services which could reduce or deepen health inequalities.

The assurance process required appropriate engagement with those identified groups working with people who may have faced barriers to taking part in this consultation. This gave people who may have been more impacted by any potential change a meaningful opportunity to consider and feedback on the various issues and proposed changes.

To validate perceived impacts from the IIAs, people from these groups have been engaged and asked about their perception of how any changes to services might have an impact on them, whether this is positive or negative.

The programme has taken an asset based approach to this work and engaged with third sector and interest groups in South Tyneside and Sunderland who support people who may face barriers to taking part in the consultation. This offer included:

- Online and telephone support on how to run an effective focus group with stakeholders/service users
- Free webinar online training session, including practical tips on how to run an effective focus group
- Focus group toolkit – discussion guide and tools
- Payment of £100 plus reasonable event expenses
- Requirement to provide a short output report of the feedback from each focus group
- Requirement to request data monitoring information from participants and provide data to monitor equalities.

This section includes the following:

- A breakdown of pre-engagement and consultation activity with protected characteristic groups, including any targeted mechanisms and reach (see appendix 7, tables A and B)
- Demonstrable alignment of consultation methodology with IIA (appendix 7, tables A and B)
- Any demonstrable adjustments made to the consultation process in light of feedback from protected characteristic groups.

Local third sector voluntary and community groups or organisations were asked to hold focus groups, events or one to one feedback sessions in South Tyneside and Sunderland to help consult with different vulnerable groups in relation to specific or different issues.

The objective was to continuously develop and adjust (where necessary) an open consultation methodology in order to reach and include the most vulnerable groups of people and provide a range of engagement activity that allowed different stakeholders and groups to get involved in the way that is most suitable to them.

Over 80 organisations in South Tyneside and Sunderland were identified and approached on a number of occasions to ask if they were interested in running focus groups and events to help ensure their service users and volunteers were able to influence the review of clinical services in South Tyneside and Sunderland. Interested groups were asked to complete and return an 'expression of interest' form which outlined their area of interest and proposed engagement or focus group activity.

This local approach to engagement activity was commissioned with local providers during the consultation.

The formal focus group phase of the Path to Excellence consultation began on 1 September to 13 October 2017. This was planned deliberately to allow time for socialisation of the issues during the early phase of the consultation period including public meetings.

An easy read version of the consultation documents was commissioned and this was available for the start of the focus group activity. It was used by learning disability groups and groups whose first language was not English in order to assist with translations.

A review of third sector activity was undertaken prior to the consultation closing date. As a result, the period was extended until 20 November to ensure particular groups could engage or continue to have dialogue with service users and vulnerable people to provide an opportunity to capture this feedback in the analysis report.

Monitoring of activity and cross-checking groups with those highlighted in the IIAs ensured that any gaps in equality work could be identified. This led to the programme team responding to further interest, as well as undertaking additional work, to contact and encourage groups to take part and run focus group sessions or send an organisational response to the consultation.

Where groups indicated an interest to be involved and did not have the capacity to deliver a session with service users, these were facilitated by the partnership with the support of the third sector organisations. Those groups which were unable to deliver a focus group due to no uptake, challenges bringing service users together or concerns about consultation fatigue, distributed surveys to clients and staff and/or sent in an organisational response to the consultation.

All methods used ensured that feedback and dialogue was captured, which was then analysed and included in the final feedback report. All methods included data monitoring of the key characteristics of participants to ensure the partnership heard from key groups in alignment with the IIA and that equality monitoring took place. This is not only best practice, but ensures that the NHS meets its equality duties as well as its statutory duties to involve and consult.

A point to note is that whilst NHS organisations have a duty to ask for equalities monitoring information from all participants, it is not mandatory for people to complete and return this information after taking part in a focus group or an event.

There has been a good response to this work to date as follows:

- worked with 20 local organisations
- delivered a combined total of 32 focus groups, events or one to one work with service users as part of the consultation process
- involved 324 people
- returned 135 monitoring forms

This information is included at appendix 7, table B.

8.4 Future adjustments to equality impact activity for next phase

Working with partner organisations in the third sector has been a positive experience and there is a commitment to continue to build upon the relationships that have been established for the next phase of the programme. This is also in response to feedback that the third sector feel the NHS only engages with them in order to ‘tick a box’.

As part of the commitment to continuous improvement, in early 2018 a review of the equality engagement activity and processes will take place in order to inform an updated equality delivery strategy for the programme and to under-pin the updated communications and engagement strategy for the next phase.

During informal discussions with third sector partners this was welcomed and early developments included:

- Support from Sunderland People First (learning disability) to develop a protocol for easy read documentation
- Inclusion of HealthNet (CVS umbrella organisations) in a new Stakeholder Advisory Panel

9. Consultation feedback, sharing and independent analysis

As previously highlighted, Social Marketing Partners (an independent organisation) produced the consultation feedback report. This was published in draft form in early December 2017 and marked the start of a period of consideration by South Tyneside and Sunderland CCGs which lasted until 8 January 2018.

This presented the public and stakeholders with a further opportunity to comment on the findings of the consultation and the proposed next steps. It also provided the opportunity for any further comments that had been received from the public feedback sessions and for other data or views to be considered as well as consideration of any alternative service models that may have been suggested through the public consultation.

This consideration included staff and public feedback sessions, clinical workshops with members of the clinical services review group and workshops with the two CCG governing bodies.

9.1 Public and staff feedback on the draft reports

The objective of the staff and public feedback sessions was to allow the opportunity for consultees to hear the feedback that had been collected during the consultation and sense check it. In particular, the programme team were keen to hear if participants felt there were any omissions in the draft feedback report and provide an opportunity for the original data to be checked.

Comments made at the public sessions were published on the programme website, along with the issues discussed within the public consultation events, questions around engagement methods such as the validity of on-street research and the difference between quantitative and qualitative research methods.

In terms of specific issues raised about the report itself, the following comments were received:

- More emphasis to be made in relation to the Save South Tyneside Hospital petition

- Request from the South Tyneside and Sunderland JHOSC for a shorter executive summary. However the CCG accountable officers felt the executive summary was fit for purpose for decision-making and agreed it would remain as it was.

The final feedback report has been published on the Path to Excellence website.

10. Informing final options appraisal

The decision-making process will finish with an extra-ordinary meeting, to be held in common, of the governing bodies of the two clinical commissioning groups in February 2018. It will be held in public and the two CCGs will make their final decisions on the future configuration of the services under consultation for their respective CCG areas.

This meeting will be promoted in advance and arrangements made for campaign groups and stakeholder to attend to observe the meeting and discussions.

11. Further assurances required in order to agree the consultation process as fair and appropriate

In early December, the governing body members of each CCG attended a workshop to hear the consultation feedback. This workshop was supported by colleagues from the Path to Excellence programme and both hospitals.

The purpose of the session was to share the draft feedback from the public consultation and for members of the clinical services review design teams to provide their response and make recommendations for adjustments to the clinical models as a result of the public feedback.

Governing body members requested the further information outlined below for assurance purposes following their workshop in January:

- Further detail about East Durham postcodes for patient flow into SRH in order to report to Durham Health Overview and Scrutiny
- More feedback around gynaecology if available
- Outline communications and engagement strategies that could support service changes around maternity (obstetrics) and urgent and emergency paediatric care
- A report for assurance around work taking place on travel and transport with wider stakeholders and how travel impact would be mitigated.

12. Consultation Institute independent quality assurance process

In order to ensure a good consultation process, the partnership asked the independent Consultation Institute to conduct a quality assurance review. At the mid-term position of the formal public consultation period in August 2017, the Consultation Institute review concluded that the Path to Excellence consultation process was on track for a 'best practice' certification.

Feedback from the Consultation Institute concluded that it was satisfied the partnership had addressed areas highlighted in the pre-consultation review such as governance, engagement with MPs, equality analysis for consultation activity, website refinement, plans for wider staff and clinical engagement and travel and transport impact.

The Consultation Institute quality review process has five stages:

Stage	Objective	Assessment for the Path to Excellence programme
Scoping	When the basics of the consultation are agreed	Best practice
Project Plan	When the consultation activities are set out and organised	Best practice
Documentation	Ensuring that all hard copy and electronic versions are fit for purpose and that questionnaires conform to best practice	Best practice
Mid-Point Review	To assess whether all relevant views are being collected	Best practice
Closing Date	To finalise plans for analysis, feedback and to influence the outcome	Best practice
Final Report	To confirm the Institute's endorsement of the consultation	Pending subject to final decision making meeting

At the pre-decision making position in February 2018, the Consultation Institute verbally confirmed a final 'best practice' certification would be pending subject to how final decision making is conducted. A copy of the Consultation Institute mid-term review quality assurance feedback is included at appendices 8a, 8b and 8c.

13. Planning for phase two and bringing learning from phase one

As previously highlighted, consultation is a continuous dynamic dialogue and a self-correcting process. There is a clear mandate within the programme for learning and continuous improvement in order to take lessons into the next phase of NHS reform.

Key elements for improvement have already been identified and some aspects already implemented. This includes an updated outline communications and engagement strategy (included at appendix 9) which sets out the enhanced pre-engagement phase from February 2018 bringing wider staff and stakeholders into the process at an earlier stage and looking to spring 2019 for consultation on future reform.

Another key aspect of this is the establishment of a consultation stakeholder advisory panel drawn from trade unions, trust governors, local authorities and community and voluntary sector organisations. Its mandate is to review communications and engagement plans.

A review of equality delivery will be undertaken to continue to build upon the good relationships already established with the community and voluntary sector to develop an underpinning equality engagement strategy for the programme. This will include working with a charity specialising in giving people with learning disability and autism a voice. The programme will also develop a new protocol for accessible information to be adopted for the next phases and related work.

14. Recommendation

The governing bodies of South Tyneside and Sunderland CCGs are asked to formally endorse the communications and engagement activity for the consultation process for phase one of the Path to Excellence programme.

Author: C Latta
Senior Communications and Engagement Locality Manager
North of England Commissioning Support

Responsible Directors:

M Brown	Mr S Watson
Director of Operations	Director of Contracting and Informatics
NHS South Tyneside CCG	NHS Sunderland CCG

15. Appendices

Appendix 1 – NHS legal duties and requirements

There are several areas of statue, case law and national policy in relation to NHS reconfiguration and consultation. This section shows where this work would need to be compliant and planning audit trails would need to demonstrate the activity undertaken. This would also ensure best practice engagement and consultation as part of a quality assurance process with the Consultation Institute.

NHS Act 2006 (As Amended by Health and Social Care Act 2012)
The NHS Act 2006 (including as amended by the Health and Social Care Act 2012) sets out the range of general duties on clinical commissioning groups and NHS England.

Commissioners' general duties are largely set out at s13C to s13Q and s14P to s14Z2 of the NHS Act 2006, and also s116B of the Local Government and Public Involvement in Health Act 2007:

- Duty to promote the NHS Constitution (13C and 14P)
- Quality (13E and 14R)
- Inequality (13G and 14T)
- Promotion of patient choice (13I and 14V)
- Promotion of integration ((13K and 14Z1)
- Public involvement (13Q and 14Z2):
    a. Under S14Z2 NHS Act 2006 (as amended by the Health and Social Care Act 2012) the CCG has a duty, for health services that it commissions, to make arrangements to ensure that users of these health services are involved at the different stages of the commissioning process including:
        i. In planning commissioning arrangements;
        ii. In the development and consideration of proposals for changes to services;
        iii. In decisions which would have an impact on the way in which services are delivered or the range of services available; and
        iv. In decisions affecting the operation of commissioning arrangements where the implementation of the decisions would (if made) have such an impact.

S.244 NHS Act 2006 (as amended)
The Act also updates s244 of the consolidated NHS Act 2006, which requires NHS organisations to consult relevant local authority overview and scrutiny committees on any proposals for a substantial development of the health service in the area of the local authority or a substantial variation in the provision of services.

S.3a NHS Constitution

The NHS Constitution sets out a number of rights and pledges to patients. In the context of this project, the following are particularly relevant:

Right**:** You have the right to be involved, directly or through representatives, in the planning of healthcare services commissioned by NHS bodies, the development and consideration of proposals for changes in the way those services are provided, and in decisions to be made affecting the operation of those services.

Pledge: The NHS commits to provide you with the information and support you need to influence and scrutinise the planning and delivery of NHS services.
(Section 3a of the NHS Constitution)

S.82 NHS Act 2006 - Co-operation between NHS bodies and local authorities

In exercising their respective functions NHS bodies (on the one hand) and local authorities (on the other) must co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.

The Gunning Principles

R v London Borough of Brent ex parte Gunning [1985] proposed a set of consultation principles that were later confirmed by the Court of Appeal in 2001.

The Gunning principles are now applicable to all public consultations that take place in the UK. Failure to adhere to the Gunning principles may underpin a challenge relating to consultation process that may be considered through judicial review.

The principles are as follows:

1. When proposals are still at a formative stage
   Public bodies need to have an open mind during a consultation and not already made the decision, but have some ideas about the proposals.

2. Sufficient reasons for proposals to permit 'intelligent consideration'
   People involved in the consultation need to have enough information to make an intelligent choice and input into the process. Equality assessments should take place at the beginning of the consultation and be published alongside the document.

3. Adequate time for consideration and response
   Timing is crucial – is it an appropriate time and environment, was enough time given for people to make an informed decision and then provide that feedback, and is there enough time to analyse those results and make the final decision?

4. Must be conscientiously taken into account

Decision-makers must take consultation responses into account to inform decision-making. The way in which this is done should also be recorded to evidence that conscientious consideration has taken place.

'The Four Tests' – NHS Mandate 2013-15 (carried forward through NHS Mandate 2015-16)

NHS England expects ALL service change proposals to comply with the Department of Health's four tests for service change (referenced in the NHS Mandate Para 3.4 and 'Putting Patients First') throughout the pre-consultation, consultation and post-consultation phases of a service change programme.

The four tests are:

- Strong public and patient engagement
- Consistency with current and prospective need for patient choice
- A clear clinical evidence base
- Support for proposals from clinical commissioners.

As a proposal is developed and refined commissioners should ensure it undergoes a rigorous self-assessment against the four tests

Planning, Assuring and Delivering Service Change for Patients – NHS England Guidance

Guidance from NHS England sets out the required assurance process that commissioners should follow when conducting service configuration.

Section 4.4 of the guidance refers to involvement of patients and the public, stating that "it is critical that patients and the public are involved throughout the development, planning and decision making of proposals for service reconfiguration. Early involvement with the diverse communities, local Healthwatch organisations, and the local voluntary sector is essential. Early involvement will give early warning of issues likely to raise concerns in local communities and give commissioners time to work on the best solutions to meet those needs."

Appendix 2 – Programme Governance Group terms of reference

Appendix 2 PtE Programme Managem

Appendix 3 – Communications and Public Engagement Task and Finish Group terms of reference

Appendix 3 c&pe Draft TOR.docx

Appendix 4 – Pre-engagement phase analytics report

Appendix 4 Pre-engagement phas

Appendix 5 – consultation phase communications and marketing statistics

Appendix 5 Consultation phase co

Appendix 6 – statistical response rates consultation phase

Appendix 6 Statisical response rates consult

Appendix 7 - Consultation equality analysis

Appendix 7 Equalities tacker consultation ph

Appendix 8a, 8b, 8c – Consultation Institute mid-term review feedback

Appendix 8a Mid Term Review

Appendix 8b Project Review

Appendix 8c Documentation Revie

Appendix 9 – Outline communications and engagement strategy for phase 2

Appendix 8 PTE Phase Two - Commun