East Midlands Academic Health Science Network
Igniting Innovation

How to guide

How to engage the public in scrutiny

This document was started in 2014 and last updated 2 Sept 2020. See the most recent version here

Introduction

Public scrutiny helps to ensure that staff who work in health and social care research and services are doing their job properly. Sometimes it goes wrong, as the tragic events at Mid-Staffordshire NHS Trust and elsewhere illustrate all too graphically. Whether a reference group is commenting on a research idea, a member of the public is commenting on a document, service users are giving feedback on the services they receive, or Healthwatch[1] champions are undertaking an unannounced 'enter and view' visit, scrutiny is underway, and it needs to be done well. This paper pools what we know about how to arrange things so that scrutiny is offered and received in a manner that delivers improvement.

This briefing paper was first drafted by a diverse group of stakeholders[2] called together by the East Midlands Academic Health Science Network as part of its work on Public Leadership. As readers provide feedback, further insights will be used to update the paper. Please contact shahnaz.aziz@nottingham.ac.uk to suggest improvements or tell us how you have made use of this paper.

A note on language and the reach of this paper

In this paper, we use the term 'public' to mean patients, service users, carers and other members of the public. Public scrutiny occurs when members of the public comment on a document, project or service in order to improve it. Sometimes the public are joined by others (staff from similar services or projects, students on placement[3], management consultants or inspectors from regulatory authorities) and sometimes inspection teams are made up of a mix of stakeholders. This paper focuses upon public scrutiny, where the power differential between the scrutineers and the decision-makers is at its most extreme[4].

There are four principles[5] of effective scrutiny which form the headings used in the remainder of this document.

A clear purpose

- Critical friends challenge people in power. This is hard when public scrutineers fear they will lose access to health or social care, participation opportunities or other things they value if their findings are rejected.
- It is constructive, robust and purposeful. Traditionally, scrutiny has been about finding fault, but we feel there should be an equal emphasis on recognising success[6]. This may counter the indications that in general, external inspection does not deliver quality improvement[7].
- It is useful when key decisions are being made, and also when ordinary routines are being followed. Scrutiny happens when visitors are invited in on a special occasion to comment on what they see, but also when regular meetings routinely include members of the public as partners.
- It works well when everyone is clear about their individual role, the purpose of the overall project or service and the aims of the scrutiny. While some scrutiny exercises invite the public to feedback anything they notice, especially their first impressions[8], others do much better when they are briefed on what to look for and what standards to expect[9]. Establishing such a benchmark reduces the chance that the personal preferences of the scrutineer will excessively shape judgements.

- It searches for ways to improve individual and community well-being and quality of life, and presses for administrative and organisational elements to be aligned with this aim.

Public scrutiny

- It engages with the voice and concerns of the public.
- It uses a variety of communication, consultation and feedback approaches to reach the widest possible range of the general public. It is less successful if the scrutineer is a lone individual with no working relationship with a wider constituency.
- The principle of 'nothing about me without me' means that particular attention is paid to scrutineers who have similar life experience to the people using the service under scrutiny. Where the service or project concerns people with cognitive or communication impairments additional efforts[10] will be needed to find, support and listen to scrutineers who have similar experiences. Examples include:
    - Holding a meeting to discuss cuts in the youth and community budget in the youth centre rather than County Hall
    - Engaging an interpreter to find out what South Asians think about diabetes care
    - Training learning disabled people to carry out 'Winterbourne' reviews of residential units where people with learning disabilities live.
- Meetings are usually conducted in public. In a healthy organisation[11], the findings of scrutiny exercises are reported, not just to the immediate audience, but also to senior staff, such as the Board, and this generally results in action which is reported back to the scrutineers. Arrangements are agreed beforehand regarding confidentiality, so that scrutineers honour confidentiality of personal information but are able to whistleblow, and have their own identity kept confidential where this is appropriate[12].

Effective scrutineers

It is carried out by the right people.

- The purpose is to achieve improvement in the service, project or document being scrutinised rather than advance personal or political interests. On the rare occasion when a particular scrutineeer has an ‘axe to grind’ or the legitimate comments of scrutineers are misquoted in support of a particular agenda, such misuses of the scrutiny process are addressed[13]. When the scrutineer has been harmed by the health system, there is sometimes a stage in the grieving process when they are too angry to be constructively involved in finding positive solutions, when they are eager but not yet ready[14].
- Scrutineers are independent-minded and have access to the right amount of support. For most of us, challenging people in power is an emotionally demanding activity, and so it is important to have support. Additional supports are available too, such as background documents, introductory training[15] or assistance that will enable people to participate. Receiving challenge and criticism is an emotionally demanding activity too, so those being scrutinised also need support to avoid defensive responses or shutting out the challenge.
- They raise questions[16] in a non-aggressive way to encourage investigation of the evidence. This means that people need relevant knowledge and skills. They should be able to look beyond their own circumstances and personal agendas, be reasonably well in body and mind and be resilient to infection when visiting a healthcare environment. Significantly, effective scrutineers blend assertiveness and humility so that they can both speak out their challenge, but also listen for the reasonable explanation for what they have seen and the possibility that they may have been mistaken.
- Public scrutiny of documents can be extremely thorough, as the scrutineer may spend much more time on reading the document at their own pace and thinking about it compared to a hard-pressed staff member.
- It is helpful to have at least one member of the scrutiny team who has an in-depth knowledge of the topic under scrutiny. Complete outsiders can help too, as a simple question can reveal gaps in the explanation. Any power differentials within the team are recognised and particular attention is paid to the views of people with least status or unconventional opinions.

On one inspection team made up of staff and patients, everyone expected the staff to take charge, until the error was pointed out.

- Training[17] can help, and this would include the policy context, the role of different organisations, such as Healthwatch and Overview and Scrutiny Committees[18], work on self-awareness, values and communication, learning from scandals and successes, and different ways to structure a scrutiny exercise[19].
- Scrutineers will be polite, diplomatic, helpful and accountable to a code of conduct or an organisation, so that persistent unacceptable conduct leads to disqualification. The authors of this paper felt that such situations were rare, and scrutineers who do not behave appropriately on a single occasion usually remove themselves rather than needing to be stood down, or they modify their behaviour after feedback.

A welcome for the scrutineers

Sometimes the staff under scrutiny are fearful that they will be subjected to unjustified criticism, set impossible goals, blamed for organisational failure or treated disrespectfully. In general, the people contributing to this paper felt that this was more likely to occur with professional inspectors while patient and public scrutiny is usually courteous and realistic.

Scrutineers will value guidance on what they should look for, which may be informed by government priorities, service level agreements, outcome targets and quality standards. This may be summarised in a handout or observation sheet provided to the scrutineers in advance.

The scrutiny process is most effective when staff are genuinely curious to know what the scrutineers think of their service or proposals. They seek out visitors and students and ask them for their impressions and observations[20]. If the feedback is negative, they will welcome it anyway, rather than falling into defensiveness[21]. If the feedback is mistaken, they will welcome it anyway, and continue the conversation. If the feedback is hurtful, they will welcome it anyway and be pleased that the person has felt able to speak out. If the feedback is expressed inappropriately, they will welcome it anyway and be tolerant of the lay scrutineer's lack of professional manners. However, such openness to criticism does not arise from disinterest, but rather leads to heartfelt apology where needed and a tireless determination to improve.

Managers harness the findings of scrutiny to mobilise staff for positive change. They know that some staff will recognise the merits of the feedback and be glad that someone has pointed it out, and will seek to engage their goodwill in making improvements. They do not rely too much on public scrutiny, but have their own processes for quality checking and use public scrutiny as an additional test.

Organisations who are regularly involved in scrutiny should be able to point to many instances where their advice has led to real change. In order for this to be achieved, the scrutiny findings must be viewed by senior people in the organisation who are themselves able to make changes in response to the scrutiny findings. The actions taken are reported back to the scrutineers so that they know how their advice has been heeded or the reasons why it has been set aside[22].

---

[1] See some examples of how the scrutiny role is undertaken by Healthwatch: (i) the enter and view protocol used in training Healthwatch champions in Tower Hamlets, (ii) general Skills and Competencies required for an effective local Healthwatch and (iii) the specification for a Healthwatch Champion in Derbyshire.

[2] Zenn Athar, Laurence Baldwin, Peter Bates, Mick Crossley, Evelyn Koon, Glen Swanwick, Dave Waldram and Neil Watson met on 24 July 2014. Particular thanks are due to Evelyn Koon who found many of the additional resources signposted in this paper.

[3] Anne Marlowe is involved in a project on 'student led innovation' which attempts to harness their observations and clarify what kind of ward or team environment will welcome these comments.

[4] We might imagine a spectrum where individual patients have the least power to change the direction of a large organisation, through to regulatory bodies that can close it down. In between lie a number of hybrid arrangements, such as where patient groups report to the non-executive directors or report their findings to the press.

[5] This framework has been adapted from principles set out by Devon.

[6] For example, Overview and Scrutiny Committees at the local authority have been encouraged to use appreciative inquiry – see here.

[7] Sheldon TA (2019) Inspecting the inspectors – does external review of health services provide value for money? Journal of Health Services Research and Policy Volume: 24 issue: 3, page(s): 143-144. https://doi.org/10.1177/1355819619839425

[8] The '15 steps challlenge' programme pays particular attention to first impressions. Additional advice on this approach is here.

[9] See these examples of checklists for: Primary Care, Hospitals, Research ethics and Dementia care (see page 17).

[10] See these examples of scrutiny reports from adults with Learning Disabilities, Dementia, and Mental Health Issues.

[11] Page 10 here gives a flow chart of a standardised process for public consultation.

[12] See this paper on no-blame culture, whistleblowing and accountability and the NHS policy on whistleblowing here.

[13] This Code of Conduct for Board Members and Public Bodies is used by London Patient Voice (LPV) as a requirement for their recruitment of public members who are then accountable to The Centre for Public Scrutiny and the Chair of LPV.

[14] See https://www.patientlibrary.net/tempgen/157106.pdf

[15] See an example of a syllabus for scrutineers from NICE here.

[16] Guidance on asking good questions as part of the scrutiny process is available here.

[17] The Centre for Public Scrutiny has produced a series of guides for local authority councillors who sit on Overview and Scrutiny Committees. Much of this material can be adapted for use in public scrutiny.

[18] The relationship between Healthwatch, the Overview and Scrutiny Committee and the Health and Wellbeing Board is explained here.

[19] See this document on how to conduct PLACE assessments.

[20] A study of 245 online stories uploaded to the Care Opinion website found that only four of them (1.6%) was likely to lead to a change in services. See https://onlinelibrary.wiley.com/doi/full/10.1111/hex.12682

[21] Unfortunately, there is evidence that NHS staff sometimes do fall into defensiveness – see here. This can happen in a variety of ways, such as where management attempt to create a false 'appreciative' approach by banning any negative talk or criticism. If Public Contributors have genuinely painful stories to tell, this environment can lead them to feel that their genuine experience is being discounted and worse, they can be silenced altogether. When bad news is shared and difficult stories are told, the listeners need to pause a while and give the disclosure the space it demands. If they impose their culture on the Public Contributor, then they silence them or create an expectation that the person recounting the true experience must edit it and then present this sanitised version in the right way if they want to be heard. As Public #DrEm_79 put it on 7Dec 2019, 'I'm truthful, but I hold much of the truth inside and tell them the easier parts first, stopping if it gets too much…. If you are looking for lived experience only to make staff feel immediately better in that moment of hearing… then it is entertainment you want, not people's lived experience…. Rescue narratives… can make it very difficult for people with long term conditions who become unwell again.' Fear of litigation also makes professionals defensive and secretive, describing errors as 'complications' and refusing to apologise or exercise their Duty of Candour.

[22] For an example of closing the feedback loop, see http://www.clahrc-eoe.nihr.ac.uk/2016/05/impact-patient-public-involvement-ppi-completing-feedback-cycle/ In this project, research teams were encouraged to provide feedback to Patient and Public Contributors who had provided comments on their research work.