

Future Fit - a report of communications and engagement strategy delivery for the consultation process assurance

This paper will remain in draft for feedback over the period of conscientious consideration of the public feedback from the consultation phase. It will be finalised for the joint committee of Shropshire and Telford & Wrekin Clinical Commissioning Groups' (CCGs') governing bodies in order to provide a final assurance around the processes followed for the public consultation.

Author: Pam Schreier, Communications and Engagement Lead, Shropshire, Telford & Wrekin Sustainability and Transformation Partnership for the Future Fit Programme team.

Contents

1.0	Executive summary	3
2.0	Background to the Future Fit consultation.....	3
3.0	Engagement and consultation governance	5
4.0	How engagement phase feedback influenced options development.....	6
5.0	Consultation phase communications and marketing strategy.....	6
6.0	Engagement and consultation methodology	7
6.1	Consultation phase methodology	7
6.2	Mid-Point Review.....	8
6.3	Public events	8
6.4	Appointment of independent analysts.....	9
6.5	Surveys focus groups and submissions.....	9
6.5.1	Consultation survey	9
6.5.2	Targeting equality and protected groups	10
6.5.3	Submissions received from groups, teams and individuals.....	10
6.5.4	Direct mailing of surveys.....	10
6.6	Benchmarking response numbers against other NHS consultations.....	11
6.7	Targeted stakeholder engagement.....	11
6.8	Engagement with Healthwatch and CHC	13
6.9	Engagement with Members of Parliament.....	13

6.10	Engagement with other NHS bodies	13
6.11	Engagement with GPs.....	14
6.12	Engagement with staff.....	14
7.0	Review of compliance with Equality Act and Public Sector Equality Duty	14
7.1	Review of compliance with Equality Act and Public Sector Equality Duty	15
7.2	The Equality Act General Duties.....	16
7.3	Activity to engage with protected groups and those identified in the equality analysis work.....	16
7.4	Future adjustments to equality impact activity for next phases	17
8.0	Consultation feedback, independent analysis and sharing consultation feedback	18
8.1	Joint meeting of Shropshire and Telford & Wrekin CCG Governing Bodies – 14 th November 2018	18
8.2	Enhanced formal programme board and workshop for invited stakeholders – 22 nd November 2018	18
8.3	Joint Health Overview and Scrutiny Committee – 3 rd December 2018 and Powys Community Health Council Full Council meeting – 4th December	19
8.4	Additional Meetings	19
9.0	Next Steps	19
10.0	Informing final decision making.....	20
11.0	Planning for post-decision making.....	20
12.0	Appendices	21
12.1	Appendix 1 - NHS legal duties and requirements.....	21

1.0 Executive summary

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 Future Fit consultation in line with this context.

It provides background to the communications and engagement subject specific expertise deployed, the governance and partnership arrangements established for consultation programme delivery as well as rationales for activities undertaken.

It demonstrates how the programme deployed 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 that were presented and open to influence during the public consultation.

It also demonstrates how adjustments to the consultation process were made, in line with consultations being a continuous dynamic dialogue and a self-correcting process.

It shows how targeted stakeholder engagement was conducted, in particular in relation to statutory duties to consult with overview and scrutiny committees, and how key stakeholders have been updated.

It also sets out how equality analysis and equality monitoring was conducted in relation to consultation and the activities carried out in order to ensure groups with protected characteristics have been involved in the process.

Finally, it highlights 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. It is supported by the Pre-Consultation Engagement Report which summarises all activity prior to the formal consultation phase. The Pre-Consultation Engagement report is available at: www.nhsfuturefit.org

2.0 Background to the Future Fit consultation

The two CCGs, Shropshire and Telford & Wrekin worked through the Communications and Engagement Lead for the local STP for expert strategic advice and operational delivery for a programme of engagement and consultation to support the Future Fit programme.

The lead has experience in providing end to end service transformation and public consultation, and adopting a continuous improvement approach to constantly learn and refine activity. With strong links with communications and engagement professionals across the NHS nationally and locally, she was able to draw upon those networks and experiences to develop a small consultation team.

The approach was in-line with the principle that consultations are a 'continuous dynamic dialogue' and are a self-correcting process. This allows organisations that are consulting with the public to change consultation processes in response to what is heard about the process during the consultation period and to make adjustments.

The team retained the Consultation Institute, who provide external expertise, up to date advice on emerging case law and advice on the robustness of the consultation process.

A key requirement for NHS service change is to meet the NHS assurance framework, [planning, assuring and delivering service change for patients](#). By doing so, it also provides a robust planning process and NHS local system assurance.

'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. This legal and policy context for the NHS included in appendix 1.

The consultation strategy and subsequent activity and resources included the communications and engagement expertise, experience and skill mix required and budget recommendations to deliver a safe engagement and consultation process.

Safe refers to there being no successful legal challenge, no successful referral to the Secretary of State for Health and subsequent intervention by the [Independent Reconfiguration Panel](#) (IRP), and therefore delay to the implementation of service changes and damage to stakeholder relationships.

A communications and engagement strategy was produced prior to the start of consultation. It provided high-level NHS legal and policy context for significant service change, and allowed the NHS partners to consider the risks and mitigations involved for a programme of pre-engagement and consultation.

The strategy provided the basis of the communications and engagement plan for the programme, and also provided assurance to the Future Fit Programme Board and to the two CCGs' governing bodies, 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 (Joint HOSC) and Powys Community Health Council (CHC).

A robust NHS England assurance process placed challenge on the system to ensure that all areas of activity that needed to proceed in tandem to the formal consultation were in hand. Approval of the Pre-Consultation Business Case and all consultation materials by the CCG

Governing Bodies and the Future Fit Programme Board formed part of this process. The Joint HOSC and Powys CHC and were kept informed at all stages and agreed to the final start

date and length of the consultation. The formal public consultation period therefore started on 30th May 2018 and was planned to take place over 14 weeks.

3.0 Engagement and consultation governance

In order to ensure good processes, a Stakeholder Reference Group (SRG) was established to oversee the development and implementation of the consultation strategy and related consultation dialogue activity with the public and stakeholders. In addition, a Publications Reading Group was formed of patient representatives from Shropshire, Telford & Wrekin and mid Wales to inform the production of all consultation materials.

The SRG's oversight included:

- Compliance to legal duties, local and national policy, guidance and mandated requirements
- Overview of communications and engagement strategy development and implementation
- Dialogue communications and engagement methodology with key stakeholders
- Equality impact analysis and assurance
- Oversight of key consultation publications and ensuring a plain English approach to all materials
- Oversight of the translation of materials into Welsh for the population of Powys
- Development of the consultation surveys
- Input into communications plans for engagement promotion
- Review of key documents including the main consultation document, summaries etc
- Suggestions for engagement and consultation methods
- Provided local knowledge to support equality work and links to community and voluntary sector groups
- Acted as a critical friend to the programme

The work of these groups was positive and their input invaluable, the programme would like to thank members for their assistance, their input, ideas and work has helped ensure the consultation has been wide ranging, high quality, open and took different views and experiences into account.

The Stakeholder Reference Group has continued to oversee the updated communications and engagement plans for the post consultation phase, as well as make key recommendations for how learnings from previous phases can be incorporated, to ensure continuous improvement. The Group has agreed that it will conclude its work in support of the consultation at the post-decision making stage and any ongoing input will be sought from the STP Communications and Engagement Group.

4.0 How engagement phase feedback influenced options development

Prior to the start of consultation, a Pre-Consultation Engagement Report was drafted which summarised the engagement activity from the Call to Action in 2013 through to the start of consultation. This document provided information on the influence of the pre-consultation engagement throughout the options development and appraisal process. It demonstrates how we listened to people's views and ideas. It includes a list of all the engagement that has taken place from 2013 to 2018 and the reporting of this engagement through CCG boards, Joint HOSC and Future Fit Programme Board. The PCER can be accessed at: www.nhsfuturefit.org

5.0 Consultation phase communications and marketing strategy

An underpinning communications and engagement strategy was developed for the consultation phase and shared with the CCGs, the Joint Health Overview and Scrutiny and Powys Community Health Council.

The purpose of the consultation plan was to describe our process for formal consultation and how we were to reach stakeholders including patients, their carers, families and members of the public across Shropshire, Telford & Wrekin and mid Wales. This process ensured that our methods and approaches were inclusive and tailored to the people we wanted to reach so that they could have their say. These included:

- Public, patients, carers and their representatives
- Key stakeholders including partner organisations
- Voluntary, community and social enterprise sector organisations
- Staff across all partner organisations of the Sustainability and Transformation Partnership
- Local Councillors, MPs and Welsh Assembly Members
- Joint Health Overview and Scrutiny Committee, Healthwatch Shropshire, Healthwatch Telford & Wrekin and Powys Community Health Council
- Particular interest groups, including seldom heard groups and nine protected characteristics, plus four additional groups identified by the Future Fit Programme Board

The plan drew on feedback received to date from the public and key stakeholders and was shared with the Future Fit Communications and Engagement Stakeholder Reference Group. The plan describes mechanisms that were in place and what else we intended to do to consult with staff, the public, patient, carers, key stakeholders and seldom heard groups.

The plan set out the activity which was to take place and the timelines involved, including the resources required to deliver the plan. The intention of the plan was to help people understand what to expect from the formal consultation, how they could be involved and how long the process would take. The purpose of the consultation communications and engagement activity was to:

- Raise awareness of and provide information on the changes being proposed
- Involve stakeholders in discussions about the proposed changes and draw out any issues and concerns
- Support us to pay 'due regard' to our equality duty in our decision making
- Work with stakeholders to consider potential solutions to any issues raised
- Gather feedback which will inform the decision about the future model of hospital services
- Ensure we meet our statutory duties as set out later in this document

The plan adopted the following high-level objectives:

- To ensure that the consultation is transparent and that it meets its statutory requirements through sufficient inclusiveness, breadth, and depth
- To create a significant and meaningful amount of engagement with local stakeholders, ensuring that the consultation is accessible, that they are aware of the survey and documents and have the opportunity to participate
- To capture, collate, analyse and consider the feedback we receive to make an informed decision
- To ensure a thorough audit trail and evidence base of feedback

6.0 Engagement and consultation methodology

A separate report was developed to summarise the methodology adopted throughout the pre-consultation and formal consultation period. In brief, the following stages were followed:

6.1 Consultation phase methodology

Building upon the plans developed in the pre-engagement phase, an integrated mixed consultation methodology was adopted, with the specific purpose to ensure compliance with the Gunning Principles, contained in appendix 1, and ensure opportunities for the public to influence the outcome of the consultation.

The consultation period was proposed to run for 14 weeks, from 30th May 2018 to 4th September 2018, to take into account the summer 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 and Powys CHC.

In particular, we were mindful of the significance of the proposed changes, and learning from other NHS consultations across the country of a similar size had shown that there was a need to ensure all changes received due consideration.

Also it was acknowledged that the issues were complex, and every effort should be made to make information as easily accessible and understandable as possible, but for different

people this would mean different types of information, and to ensure there were sufficient reasons provided for 'intelligent consideration' as per Gunning Principle two.

It was agreed to be published on the website:

- Full pre-consultation business case for change and all appendices
- Public facing consultation document – a summary of the above
- Summary consultation document – a summary of the public facing consultation document
- Easy Read and accessible formats of consultation documents
- Welsh language versions of documentation as required
- Frequently Asked Questions – to be updated throughout the consultation period to respond to questions and concerns
- Integrated health, quality and equality impact analysis

6.2 Mid-Point Review

Midway through the consultation a formal mid-point review was organised to allow for a stocktake of the demographic data from the responses received by that point. The findings were shared with Joint HOSC and Powys CHC to allow for feedback and suggestions to feed into the self-correcting nature of the consultation process.

6.3 Public events

Initially 10 formal public events were planned to run for four hours to allow time for discussion and for people to drop in at a time convenient to themselves. These were designed by the Stakeholder Reference Group to offer the greatest opportunity for the majority of people to be able to ask their questions to clinicians and senior executives from the CCGs and Powys Teaching Health Board.

Initially we did not have a specific travel and transport table, but realised early in the consultation that many people were attending with specific questions relating to travel, in particular public transport. Therefore we secured the support of the appropriate individuals at each public meeting, and as with all tables, views and comments were captured.

In addition, by the time of the mid-point of consultation review, we had identified the need to hold three additional events and to extend the consultation by one week, closing on 11th September 2018, to allow people to have time to consider what they heard at the events and take part in the consultation.

Therefore, during the consultation, 13 public events were booked and promoted which reached nearly 1000 members of the public. They had a series of 'stations' to ensure expert input. These included:

- Emergency Care
- Planned Care
- Women & Children
- Outpatients and Tests

- Travel and Transport
- General enquiries
- Healthwatch or Powys CHC representation

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

All event feedback was captured and Frequently Asked Questions updated on a regular basis and published on the website to ensure the conversations were shared in order for participants and others to view the comments made at each event.

In line with good event practice, staff working at the events received an event pre-brief document, were invited to attend pre-event briefing sessions in the run up to the start of the consultation and were asked to arrive early to be briefed about venue and attendee specific information in advance of the event, and stayed behind afterwards to take part in a debrief. Doing this was extremely valuable as key learnings were taken forward into the next events, and staff were able to share their experiences in order to improve subsequent events again to continuously improve to provide the best safe environment for people to participate.

Development sessions also took place with key clinical staff who would be presenting at the events; these were designed to support staff, who for many was the first time leading public events of this nature.

It should be noted that there was some opposition to the style of meetings by some members of the public who wanted to be able to have question and answer style events to have their say in front of a wider audience rather than enter into detailed discussions with clinicians and CCG and SaTH executives.

6.4 Appointment of independent analysts

An independent organisation, Participate Ltd, were appointed to provide analysis of consultation feedback, in line with best practice consultation and to ensure public confidence in the feedback report. The resulting Consultation Findings Report included analysis of all surveys, emails, letters and feedback from the public events, pop-up information stands and seldom heard group face to face meetings and other sessions.

6.5 Surveys focus groups and submissions

6.5.1 Consultation survey

The survey provided an easily accessible way for people to give their views. It was made available on-line and on paper with a free post for ease of return. In addition, a version was produced for screen readers to allow participation from visually impaired respondents.

An independent organisation Participate Ltd, with expertise in complex survey design and registered with relevant professional bodies supported the survey development and conduct analysis for all consultation engagement methods. This was to ensure that it was independent from the NHS organisations leading the consultation.

Access to the survey on-line was a key feature of publicity and promotion, and paper versions were distributed. There were 18,742 completed after data cleansing

6.5.2 Targeting equality and protected groups

Communication with the Voluntary, Community and Social Enterprise Sector (VCSE) was coordinated prior to consultation through the Voluntary and Community Sector Association (VCSA). In addition, an offer was made to three local community and voluntary group organisations to recruit and run focus groups and submit a report, in return for a small payment. This is in recognition of the Community and Voluntary Sector ability to reach further into communities than NHS organisations. In total 222 meetings took place. Some of these were delivered by the Future Fit engagement team and others by the three organisations: Rural Communities Council (Shropshire), Impact (Telford & Wrekin) and Powys Association of Voluntary Organisations (mid Wales).

6.5.3 Submissions received from groups, teams and individuals

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

Several submissions to the consultation were received from the following groups:

- NHS organisations
- VCS organisations
- Patients and public
- Elected representatives

6.5.4 Direct mailing of surveys

A number of Shropshire councillors chose to hand deliver consultation documents and surveys to their local populations. In addition, documents were handed out at several local train stations to commuters. Telford & Wrekin Council also arranged a household door drop via Royal Mail to houses in the Telford & Wrekin area. It accompanied this with additional Council produced materials and was therefore sent along with other materials from the Council.

6.6 Benchmarking response numbers against other NHS consultations

Response rates are benchmarked against comparative NHS consultations in order to give a sense of scale and proportion.

Information provided by the Consultation Institute notes that all sector consultations that achieve higher than a 1% response rate are considered 'good' response. The average response rate for UK public consultations stands at 0.7%.

Similar consultations include the NHS Calderdale Clinical Commissioning Group and the NHS Greater Huddersfield Clinical Commissioning Group which attracted similar levels of public interest and scrutiny. That consultation achieved a response rate of 0.1%.

In addition, 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 are calculated based on the population of Shropshire, Telford & Wrekin and mid Wales combined who access the two hospitals. The consultation therefore reached approximately 3.2% of the local population. The Consultation Findings Report includes a breakdown of the individual demographics to reflect what proportion of the population was reached.

While statistical analysis of the numbers of people who have responded is important to capture, it should be noted that it is the depth of qualitative response which is valuable in consultation programmes as this provides the feedback to support Gunning 4 'where decision makers conscientiously take into account public feedback in making their decision'.

While the Future Fit programme has drawn upon robust methods of consultation and engagement methodologies it is not an academic research project but targeted continuous dialogue with communities who would be most affected by potential changes. This was conducted to ensure they had the information, time for consideration and clear ways to give their views. In particular, the focus was on collecting in-depth qualitative feedback in order to give the richness of insight to help give good information to decision makers to inform final decisions.

6.7 Targeted stakeholder engagement

The CCGs are mindful of their statutory duties to engage with health overview and scrutiny committees and elected members, and respect that this is how NHS organisations are locally democratically accountable.

Since the Call to Action in 2013, local NHS organisations have held formal discussions with the Joint Health Overview and Scrutiny Committee and Powys Community Health Council.

The formation of the Joint HOSC followed a formal request to the local authorities that the it should be considered under section 30 [in relation to the guidance](#).

At pre-consultation and consultation stage, the Future Fit Programme Director and the STP Communications and Engagement Lead took a liaison role with the scrutiny officers in each of the local authorities and the joint chairs in order to ensure a good working relationship, a two way flow of information and to ensure the NHS partners met their legal duties under section 244 NHS Act 2006.

Section 244 sets out the duty to consult with local scrutiny committees on matters of NHS significant variation of services and NHS consultation, see appendix 1.

Attendance and updates to scrutiny and 'gathering' of elected health overview and scrutiny members took place throughout the consultation. Details of these are incorporated in the Consultation Findings Report at: www.nhsfuturefit.org

In addition, Powys CHC were kept informed throughout the process, either by attendance from members of the Future Fit Programme team of through the Assistant Director (Engagement and Communication), Powys Teaching Health Board. Papers for all Joint HOSC meetings can be found at: <https://shropshire.gov.uk/committee-services/mgCommitteeDetails.aspx?ID=230> and for Powys CHC at: www.wales.nhs.uk/sitesplus/1144

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

In addition, several offers were made to the JHOSC to hold a development session with the Consultation Institute and the Accountable Officers. These offers were declined by the joint chairs.

At an early stage prior to the consultation, the CCGs presented to elected members around the NHS legal and policy context for major service changes, to highlight the NHS consultation duties and outline the issues driving changes and the clinical specialties and services under review. Meetings were held with Shropshire Council and the individual parties within Telford & Wrekin Council.

During Joint HOSC meetings there have been on going questions from elected members and provision of information from the NHS in response. These requests have been recorded in the minutes from each meeting.

6.8 Engagement with Healthwatch and CHC

Healthwatch Shropshire and Healthwatch Telford & Wrekin and Powys CHC have been fully engaged in the consultation and the communications and engagement activity. They were able to provide positive challenge, suggestions and ideas to contribute to a good overall engagement and consultation process. This is in-line with their statutory role as a consumer voice for health and social care.

Healthwatch contributions included:

- Suggestion for extended consultation period to take account of summer holidays
- Sense checks of all written publications for readability and plain language
- Supported the VCS engagement and equality work
- Contribution to the scope of the travel and transport activity

It is to be noted that while involved, it has always been understood that the Healthwatch and CHC's statutory roles, and their independence has been retained. Members of the Future Fit Programme Board made themselves available to attend executive meetings.

Healthwatch and Powys CHC members also attended a wide range of public events also regularly attended the scrutiny sessions.

6.9 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 to facilitate these discussions. An open offer of one to one meetings was also made. MPs have been informed about the public events in their local constituencies and have been invited to share their views on the proposals.

6.10 Engagement with other NHS bodies

Work has taken place to engage with NHS regional clinical networks, many of whom have provided responses into the consultation process. These include:

- Neighbouring clinical commissioning groups and foundation trusts
- Neighbouring STP teams
- Shrewsbury and Telford Hospital NHS Trust
- NHSE Specialised Commissioning
- West Midlands Clinical Senate
- Shropshire Community Health NHS Foundation Trust
- Welsh Ambulance Service NHS Trust
- West Midlands Ambulance Service NHS Trust

6.11 Engagement with GPs

The clinical commissioning groups are member organisations of GP practices, and it is set out in their constitutions the role practices have within their organisations. Each CCG has updated the local GP communities around the on-going programme via development sessions, meetings, updates in regular communications and bulletins. The Future Fit Programme Director has led engagement with the LMC.

6.12 Engagement with staff

A programme of staff meetings started across Shrewsbury and Telford NHS Hospital Trust prior to the consultation and have continued throughout with alternating weekly meetings at the two hospital sites.

During the formal consultation period, the Trust openly encouraged active participation of staff and made every effort to encourage staff to input their views as part the formal consultation process. There has been regular communication directly from the Chief Executive and through internal 'team brief' processes.

Any feedback gained from staff was shared with the CCGs at weekly meetings and staff were encouraged to provide feedback formally through the consultation survey.

In addition, CCG and other partner organisations face to face and email briefings were conducted through the consultation, with events for staff taking place at the sites of Midlands Partnership Foundation NHS Trust (MPFT) and Shropshire Community Health NHS Trust.

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

The Future Fit 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 the two hospitals sites and specifically for the Women and Children's 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.

In addition, an Equality Impact Assessment was developed prior to the start of consultation and was updated at regular intervals, in particular at the mid-point review, post consultation once feedback was available from all events, surveys and letters. The EIA will continue to be updated post- decision making in early 2019.

The process required appropriate engagement with the identified groups who work with people who may face barriers to taking part in this consultation, providing 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 face to face meetings with groups they regularly engage with to help us to consult with different vulnerable groups in relation to specific or different issues.

7.1 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, and
- 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)

In addition, the Future Fit Programme Board identified a further four groups that it wished to consult with:

- Carers
- Non-English first language speakers, in particular Welsh language speakers
- Deprivation
- Rurality

7.2 The Equality Act General Duties

The general and specific duties are set out in Appendix 1 section 149 of the Act at:

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

In summary, 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 for change, two integrated impact assessments were carried out and analysis of the equalities impact has been on ongoing focus to inform engagement activity.

In addition to this, an equalities analysis was conducted on the consultation engagement and feedback. A tool used during NHS service reform planning to assess the potential of any proposal or decision to reduce or increase health inequalities, this is vital information that the NHS will need to consider in making their final decision.

To note that key data monitoring information has been requested at all opportunities consistently across all engagement methods – but it must be noted while it is a public sector equality duty to ask for data monitoring information, it is up to individuals to decide to provide it.

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

The assurance process required appropriate engagement with the identified groups who work with people who may face barriers to taking part in this consultation, providing 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.

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

The programme engaged with third sector and interest groups 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

- Focus group toolkit – discussion guide, templates and tools
- Payment of reasonable event expenses
- Requirement to provide a short output report of each focus group feedback to Future Fit
- Requirement to request data monitoring information from participants and provide that data back to Future Fit to monitor equalities.

The Consultation Findings Report produced by Participate Ltd includes all information regarding engagement with seldom heard groups throughout the 15 week consultation.

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.

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

All methods 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 NHS organisations were hearing from key groups in alignment with IIA and that equality monitoring took place. This is not only best practice, but also ensures that the NHS meets its equality duties as well as its statutory duties to involve and consult.

It is worth noting that whilst we 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. In many cases therefore we were unable to gather equalities monitoring data.

7.4 Future adjustments to equality impact activity for next phases

Working with partner organisations in the third sector has been a positive experience for the Future Fit programme, and there is a commitment to continue to build upon the relationships that have been established for the next phases of the programme.

As part of the commitment to continuous improvement, in early 2019 a review of the equality engagement activity and processes will take place in order to inform an updated equality delivery strategy for the Future Fit programme to under-pin the updated communications and engagement strategy for the next phases.

8.0 Consultation feedback, independent analysis and sharing consultation feedback

As already highlighted, an independent organisation Participate Ltd conducted the Consultation Findings Report.

This was published in draft form in November 2018 and marked the start of a period of conscientious consideration by Shropshire and Telford & Wrekin CCGs. This process has presented key stakeholders, the voluntary sector and patient representatives with an opportunity to comment on the findings of the consultation and the proposed next steps.

It also allows the opportunity for any further comments that have 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.

Key meetings to date have included:

8.1 Joint meeting of Shropshire and Telford & Wrekin CCG Governing Bodies – 14th November 2018

A meeting took place of Joint CCG Boards on 14th November 2018. The purpose was:

- to set out an approach for conscientious consideration and statutory responsibilities of Governing Bodies
- to receive in private initial draft consultation findings from Participate and the Future Fit Programme Team
- to receive other material linked to key themes, for example Travel and Transport findings
- to consider other information or analysis that may be required by the governing bodies for decision making, for example reports on outstanding actions or concerns raised at the pre consultation business case (PCBC) stage
- to produce a summary report for the Programme Board from the event.

8.2 Enhanced formal programme board and workshop for invited stakeholders – 22nd November 2018

On 22nd November 2018, the Programme Board sponsors and stakeholder members met and discussed at a whole-day event the main findings from the consultation surveys, including Stakeholder responses. They fully considered responses and counter arguments and through the Chairs and AOs considered feedback from the CCG Board event. All Programme Board organisations were well represented and a number of invited guests, including SaTH clinicians and those representing seldom heard groups, were present, as were the Joint Chairs of the Joint HOSC.

Pre-read material included the consultation findings reports together with the draft EIA, the draft Travel and transport mitigation plan and updates from the two CCGs and Powys THB out of hospital care strategies.

The morning session was focused on receiving the consultation findings and reflecting on whether there were any surprises, anything new emerging and where there was a need to examine further mitigating action. The afternoon was focused on receiving and discussing mitigation plans. This included:

- Travel and Transport Plans
- Impact on Ambulance services
- Considering progress on Out of Hospital Care strategies
- A clinical panel where acute clinicians, the ambulance service and GP lead for the MLU review responded to any safety or quality issues
- Equalities Impact Assessment
- Workforce considerations
- Digital enablers

The output was a formal report from this event together with draft recommendations being incorporated into the DMBC for further consideration.

8.3 Joint Health Overview and Scrutiny Committee – 3rd December 2018 and Powys Community Health Council Full Council meeting – 4th December

The Future Fit Programme Director and STP Communications and Engagement Lead attended the Joint HOSC to present the following documents via a presentation:

- Consultation Findings Report
- Executive Summary of the EIA
- Care Closer to Home
- Telford & Wrekin Neighbourhoods Report
- Travel and Transport Mitigation Plan

8.4 Additional Meetings

In addition, Future Fit updates were provided at the following meetings:

- Shropshire Community Health NHS Trust Board meeting in private
- Shrewsbury and Telford Hospital NHS Trust Board meeting in private

9.0 Next Steps

The JHOSC will now consider the reports provided and have invited the Future Fit Programme Team to attend a further meeting on 17th December 2018 to receive its responses. Similarly, the team will attend the Montgomeryshire Committee of the Powys CHC on 8th January.

Individual CCG Board meetings and the Programme Board meeting in December 2018 will receive the draft DMBC for comments. Note there was also an opportunity set aside to consider a further draft of the DMBC at the January meetings.

10.0 Informing final decision making

The decision making process will conclude with a Joint Committee of the two CCGs, including three independent voting members, the chair and two clinicians.

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

11.0 Planning for post-decision making

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

There will be a review of equality delivery and a continued process to build upon the good relationships established with the community and voluntary sector to develop an underpinning equality engagement strategy.

12.0 Appendices

12.1 Appendix 1 - NHS legal duties and requirements

There are several areas of statute, 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.

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 tests for service change.

The first four tests identified 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.

NHS England introduced a new test applicable from 1 April 2017. This requires that in any proposal including plans to significantly reduce hospital bed numbers NHS England will expect commissioners to be able to evidence that they can meet one of the following three conditions:

1. Demonstrate that sufficient alternative provision, such as increased GP or community services, is being put in place alongside or ahead of bed closures, and that the new workforce will be there to deliver it; and/or
2. Show that specific new treatments or therapies, such as new anti-coagulation drugs used to treat strokes, will reduce specific categories of admissions; or
3. Where a hospital has been using beds less efficiently than the national average, that it has a credible plan to improve performance without affecting patient care (for example in line with the Getting it Right First Time programme).

As a proposal is developed and refined commissioners should ensure it undergoes a rigorous self-assessment against the five 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.”

Section 183 of the National Health Services (Wales) Act 2006 requires LHBs, with regard to services they provide or procure, to involve and consult citizens in:

- planning to provide services for which they are responsible
- developing and considering proposals for changes in the way those services are provided;
- and making decisions that affect how those services operate.

Section 242 of the National Health Service Act 2006 extends this requirement to NHS Trusts.

Regulation 27(2) and 27(3) from the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 places a duty on NHS Trusts in England to consult with Community Health Councils in Wales on substantial variation in health services

You can read the full guidance from NHS Wales on engagement and consultation please use the following link [here](#)

DRAFT