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Dear Sir or Madam

DRAFT

Local Authority Health Scrutiny – Proposals for Consultation

The purpose of this letter is to outline the views of the Middlesbrough Health Scrutiny Panel on the above consultation.

We have addressed your questions in turn below, although there are a number of comments we would like to submit that do not neatly fit into any of the question areas below. Firstly, we would like to comment on the proposals to assign the Health Scrutiny power to the local authority, as opposed to Overview & Scrutiny specifically. The Panel feels that by having the role as the named forum, responsible for Health Scrutiny, it has developed a certain level of experience, expertise and respect in the local health and social care economy. It is able to call upon past experience and the accumulated knowledge when considering a new topic. The Panel can see no logical reason for the power to be instead granted to the wider local authority. In addition to that, the Panel can not see a realistic alternative for local authorities to carry out health scrutiny, other than how it does now, with non-executive councillors in a panel/committee type environment. Any system which saw Executive Councillors or Senior Management becoming directly involved with the performing of Health Scrutiny, would raise the very real prospect of a conflict of interest.

The second point that the Panel would like to make is that the Department of Health seems to be under the impression that the bulk of Health Scrutiny's work is in responding to service reconfigurations and, therefore, being somewhat reactive. It is noted that the entire consultation document on the proposals centres on such reconfiguration debates. The Health Scrutiny Panel in Middlesbrough, and in other local authorities, has developed a high profile role in proactively considering and investigating topics that it sees as important, rather similar to a Parliamentary Select Committee, on the front foot. It does not plan its entire business around the issues that the local NHS raises with it. The

Panel feels it would be welcome if the Department of Health made more reference to this in its documents on the topic.

Do you consider that it would be helpful for regulations to place a requirement on the NHS and local authorities to publish clear timescales? Please give reasons

The Panel considers this to be a reasonable approach. There is no reason as to why the NHS and local authorities cannot set in place a timeframe, where it is clear what work will be completed by certain points. The Panel feels that such important debates require that those involved should have the certainty of knowing when issues will be resolved locally, or not as the case may be.

Would you welcome indicative timescales being provided in guidance? What would be the likely benefits and disadvantages of this?

No. The Panel supports the idea of clear timelines being published, but this should be a matter of local determination/agreement.

Do you consider it appropriate that financial considerations should form part of local authority referrals? Please give reasons for your view.

It is reasonable to expect the Councillors involved in Health Scrutiny to bear in mind the financial landscape that any given service is operating in. It would be naive to not suggest it is considered and, it should be noted that Councillors are required to consider such matters with the local authority a great deal of the time. It must be noted, however, that Councillors involved in health scrutiny are typically not financially qualified and it would be unreasonable to expect that level of expertise of financial focus. As democratically elected local representatives, Councillors first concern in such debates will be on the quality and access of services. Still, it is accepted that Councillors must bear in mind the financial reality in expressing views on future strategy.

Given the new system landscape and the proposed role of the NHS Commissioning Board, do you consider it helpful that there should be a first referral stage to the NHS Commissioning Board?

The Panel considers that it could be helpful, to have an intermediate step and the expertise residing in the Commissioning Board could be of assistance. The Panel's only concern would be about a conflict of interest in the subject at hand involves services commissioned by the NHS CB.

Would there be any additional benefits and drawbacks of establishing this intermediate referral?

No, so long as it did not bar Overview & Scrutiny from referring to the Secretary of State, if it was felt appropriate.

Do you consider it would be helpful for referrals to have to be made by the full council? Please give reasons for your view.

The Panel does not agree with this proposal, for two principal reasons. Firstly, one of the benefits of Health Scrutiny thus far, is that it provides the requisite space and opportunity for Elected local representatives to examine a proposal in some detail and from a number of different perspectives. Middlesbrough's Health Scrutiny Panel has taken part in a number of pieces of reconfiguration work where it has heard evidence from a series of experts, from different disciplines, on complex matters that require a great deal of thought. Elected Members have then taken decisions on whether to support or refer proposals on the basis of that necessarily involved and detailed evidence gathering. The idea that a Panel's view to refer a matter or not, should then be required to be endorsed by a full council is flawed. By definition, the overwhelming majority of Councillors will not have sat on the Scrutiny Committee, nor considered any of the detailed evidence. A Member of the Scrutiny Panel may justifiably wonder why they had bothered to consider such detailed evidence, if people who had not attended a single evidence-gathering meeting could outvote them. In addition, by placing it within the Full Council arena, the Panel is concerned that it runs the risk of issues becoming politicised and an invitation for some to 'play politics' without an appropriate understanding of the topic.

In addition, the Panel is conscious that the Department of Health initially proposed that Health & Wellbeing Boards would have the power of Scrutiny over statutory consultations on proposed reconfigurations. That notion was the subject of fairly widespread opposition due to the clear conflict of interest between a group of people that would include councillors, setting strategy and then scrutinising the implications of that strategy. To the Department of Health's credit, it recognised the flaws in that idea and it was dropped. The Panel would like to point out that by giving the ultimate power of referral to full council, it would still be the case that leading politicians who are involved in the health and wellbeing board would be involved in deciding whether a matter is referred. In short, there would still be a conflict of interest.

The Panel notes that the Consultation document refers to the fact that by ensuring Full Council has a role to play in deciding upon a proposal being referred;

“will also bring health oversight and scrutiny functions in line with other local authority scrutiny functions, which also require the agreement of full council”¹.

Could the Department of Health provide examples of this, as the Panel could not think of any areas where full council agrees/endorse substantive actions of the scrutiny process.

Do you agree that the formation of joint overview and scrutiny arrangements should be incorporated into regulations for substantial service developments or variations where more than one local authority is consulted? If not, why not?

Yes. The Panel thinks that joint committees are of great use in considering issues affecting bigger populations and that some guidance on how they should be constituted would be helpful.

Yours sincerely

Councillor Eddie Dryden
Chair, Health Scrutiny Panel

¹ Para 72, page 19.