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SENT VIA EMAIL to scrutiny.consultation@dh.gsi.gov.uk

Dear Sir or Madam

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. 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. By way of example, the Health Scrutiny Panel has considered subjects as wide ranging as neurological services, hospital car parking charges, cardiovascular disease and the development of Private Patient Units. It identifies topics to consider through consultation with a number of partners, at the start of every municipal year.

Having made the points above, the Panel addresses the consultation questions below.

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 within the local authority a great deal of the time. It is our view that Health Scrutiny Panel has a strong record of considering subjects in their proper context. The Panel would also highlight that it also has a strong history in considering financial implications by identifying areas of service, which require an initial period of additional spending, to generate a saving in the long term. Advocating healthy heart checks for groups at statistically high risk of heart disease is a good example, which the Panel did in its review of Cardiovascular Disease.

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 and financial focus. As democratically elected local representatives, Councillors first concern in such debates will be on the quality, safety and accessibility (in the widest possible sense) of services. Still, it is accepted that Councillors must bear in mind the financial reality in expressing views on future strategy.

By way of evidence for the focus on quality and safety, the Panel was recently involved in a piece of work around changes to orthodontics services at James Cook University Hospital, with its health scrutiny counterparts around the Tees Valley. The proposal involved the retrenchment of services from outlying hospitals, resulting in a consolidation of services at James Cook University Hospital, due to organisational difficulties in

recruiting sufficiently educated and experienced orthodontists. Whilst it was difficult for Members to consider the withdrawal of services from certain communities, the overriding priority was to focus upon the safety of the service on offer. In evidence, the Foundation Trust was able to demonstrate that a consolidated service at James Cook University Hospital would provide a more resilient, sustainable and safe service for local people. Members supported this proposal, despite the 'loss' of localised services, unanimously.

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 around a possible conflict of interest, should the matter involve services commissioned by the NHS Commissioning Board.

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 served 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 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. It says;

"…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? The Panel could not think of any areas where full council agrees/endorses 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

Councillor Len Junier
Vice Chair, Health Scrutiny Panel

[1] Para 72, page 19.