

**JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE  
(YORKSHIRE & THE HUMBER)**

**MONDAY, 19TH DECEMBER, 2011**

**PRESENT:** Councillor L Mulherin in the Chair

Councillors S Ali, J Bromby, D Brown,  
J Clark, M Gibbons, R Goldthorpe, L Smaje  
and K Wilson

**45     Declarations of Interest**

There were no declarations of interest.

**46     Apologies for Absence and Notification of Substitutes**

Apologies for absence were submitted on behalf of Councillors J Bromby, T Revill, E Rhodes, I Saunders and J Worton.

It was reported that Councillor C Skelton was attending in place of Councillor I Saunders.

**47     Minutes of Previous Meetings**

Consideration of the minutes from the meetings 22 September 2011, 29 September 2011 and 4 October 2011 was deferred to a future meeting of the JHOSC.

**48     Review of Congenital Heart Services in England: Proposed Change in Membership**

The report of the Head of Scrutiny and Member Development informed the Board of a proposed change in Membership of the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber). It was reported that York City Council had nominated Councillor Christina Funnell to replace Councillor Sian Wiseman.

Thanks were expressed to Councillor Wiseman for her contribution to the work of the Joint Committee.

**RESOLVED** – That Councillor Funnell be appointed as the City of York Council's representative to the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber).

**49     Review of Children's Congenital Heart Services in England: Scrutiny Referral to the Secretary of State for Health - Update**

The report of the Head of Scrutiny and Member Development made reference to the Committee's report into the review of Children's Congenital Heart Services and its subsequent referral to the Secretary of State for consideration on the basis of inadequate consultation with the Joint HOSC by the Joint Committee of Primary Care Trusts (JCPCT), as the appropriate NHS body.

It was reported that the matter had been referred to the Independent Reconfiguration Panel (IRP) and a further response was due in January 2012.

There was a brief discussion around the membership of the IRP and how it conducted reviews.

Andy Buck, Yorkshire and Humber representative on the JCPCT, informed the Committee that the IRP had been established to provide independent advice to the Secretary of State and, in relation to the JHOSC's referral, the JCPCT had been asked to provide information.

The JHOSC was also advised that the IRP membership relating to individual referrals was drawn from a pool of overall members. As such, membership varied on a case-by-case basis.

Members requested specific information on the overall Membership of the IRP and any specific sub-group established to review the JHOSC's referral.

**RESOLVED** – That the report and discussion be noted.

## **50 Review of Children's Congenital Heart Services in England: Joint Committee of Primary Care Trusts (JCPCT) - Update**

The report of the Head of Scrutiny and Member Development invited an update from the JCPCT regarding the proposed reconfiguration of Children's Congenital Heart Services in England. The following were in attendance for this item:-

- Andy Buck, Chief Executive – NHS South Yorkshire and Bassetlaw and Yorkshire and Humber JCPCT representative
- Cathy Edwards, Director – Yorkshire and Humber Specialised Commissioning Group
- Matthew Day, Specialty Registrar in Public Health – Yorkshire and Humber Specialised Commissioning Group

The Committee was reminded of the Judicial Review that had been sought by the Royal Brompton and Harefield NHS Foundation Trust. It was reported that following the Judicial Review, the High Court had ruled in favour of the JCPCT on several items but not in respect of how research and innovation was handled in the consultation document.

As a result, the whole consultation had been declared unlawful and subsequently null and void.

The JHOSC was advised that the JCPCT would be appealing the judgement and that appeal papers had been lodged. It was reported that the JCPCT had also asked for the appeal to be expedited and that the Royal Brompton and Harefield NHS Foundation Trust may also issue a counter appeal.

The JHOSC was informed that if the appeal was upheld and found in favour of the JCPCT, then the consultation already undertaken could be used to proceed to a decision. However if the appeal was to fail, there would have to be a further consultation process.

As a result of the original judgement and ongoing legal proceedings, it was reported that the JCPCT was currently unable to consider any of the responses made during the consultation – including the detailed report submitted by the JHOSC.

Concern was expressed that the report provided by the Joint HOSC would not be considered or responded to. It was reported that the JHOSC's report had been given some initial consideration until the judgement on the Brompton case had been announced, but that no further consideration was currently being given – due to the consultation process being deemed as unlawful.

It was reported that should the JCPCT be successful in its appeal, then the JHOSC should expect a formal response to its report.

Further discussion was held on the potential timescales for the appeal against the decision and for any counter appeal that may follow. It was hoped that a final decision on the consultation would be made within two to three months.

Members expressed further concern around the delay, including the potential impact of local elections (in May 2012) and the impact these may have on the Membership of the JHOSC.

**RESOLVED** – That the report and discussion be noted.

## **51 Review of Children's Congenital Heart Services in England: Additional Information**

The report of the Head of Scrutiny and Member Development introduced additional information previously requested by Joint HOSC. The following information was appended to the report:-

- Testing Assumptions for Future Patient Flows and Manageable Clinical Networks (Price Waterhouse Coopers (PwC) final Report – October 2011).
- Report (and associated letter) of Sir Ian Kennedy's panel in response to questions made by the JCPCT (17 October 2011).
- Report of Dr Patricia Hamilton CBE, Chair of the Safe and Sustainable Steering Group, on behalf of Steering Group Members (17 October 2011).

The following were in attendance for this item:-

- Andy Buck, Chief Executive – NHS South Yorkshire and Bassetlaw and Yorkshire and Humber JCPCT representative.
- Cathy Edwards, Director – Yorkshire and Humber Specialised Commissioning Group.
- Matthew Day, Specialty Registrar in Public Health – Yorkshire and Humber Specialised Commissioning Group.

Testing Assumptions for Future Patient Flows and Manageable Clinical Networks (Price Waterhouse Coopers (PwC) final Report – October 2011)

Notwithstanding the outcome of the Judicial Review discussed earlier in the meeting, it was reported that the JCPCT was in a position of being able to consider the PwC report on patient flows and clinical networks.

It was confirmed that the JCPCT had been considering the PwC report and the issues highlighted were being given serious consideration. It was also confirmed that such meetings had been held in confidential session.

The following issues were highlighted and discussed by members of the JHOSC:-

- The PwC report cited Leeds, Leicester, Bristol and Southampton as having well developed networks.
- The PwC report supported the findings of the Joint HOSC and this had been information that the Committee had reserved right to pass comment on. It was stressed that this needed to be considered by the JCPCT in conjunction with the JHOSC initial report.
- It was confirmed that the JCPCT was still giving full consideration to the PwC report and the other additional information as these were not part of the consultation process.
- In response to a question as to whether the JCPCT could consider any further response/ comment the JHOSC may wish to issue in light of the PwC report, it was reported that this would be dependant on the outcome of the appeal currently lodged.

It was reported that the JCPCT was endeavouring to arrive at a decision that was in the best interests of children and families across the country. However, it was acknowledged that with fewer centres some would have to travel further than they did at present.

Reference was also made to the provision of outreach arrangements and the focus on services and networks as well as the reconfiguration of centres.

Report (and associated letter) of Sir Ian Kennedy's panel in response to questions made by the JCPCT (17 October 2011)

With regard to the report of Sir Ian Kennedy's Panel, it was reported that the JCPCT would be giving full consideration to the observations regarding co-location of services and critical clinical inter-dependencies. The wider benefits

of different forms of co-location including the experience for families would also be taken into account.

The reassurance provided was welcomed by the JHOSC.

Report of Dr Patricia Hamilton CBE, Chair of the Safe and Sustainable Steering Group, on behalf of Steering Group Members (17 October 2011)

In considering the information presented, the following issues were highlighted and discussed by members of the JHOSC:-

- Transport arrangements, the suggested amalgamation of services and the necessary financial support this would need.

It was outlined that the introduction of Embrace across Yorkshire and the Humber had been regarded as a significant improvement for neo-natal transfers and retrieval. A national stock take had been carried out on retrieval services by the 10 Specialised Commissioning Groups (SCGs). It was reported that a variety of arrangements were currently in operation across the country and many other areas did not have combined transfer and retrieval services.

Amalgamation of services and geography were being taken into consideration and transport was considered to be of high priority in the national programme.

- The potential impact on Paediatric Intensive Care Units and subsequent effects on staff retention and recruitment.

It was reported that the JCPCT was acutely aware of the potential impacts associated with implementation and full consideration would be given to these issues.

- Fragmentation of care and the role of networks

There was an assumption that with fewer centres, there would be a need to reconfigure existing networks and establish new ones. However, the view of the JHOSC was that Yorkshire and Humber already had an established and well developed network and that this should have been given much greater consideration before and during the consultation process. .

- Treatment of Patent Ductus Arteriosus (PDA)

The Chair highlighted the seemingly difference of approach/ advice provided by the Steering Group regarding the treatment of PDAs. That is, a cardiac surgical procedure not required to be performed at a designated surgical centre – but through the despatch of a surgical team from a designated surgical centre. Members questioned both the rationale and practicalities associated with this proposed additional standard.

**RESOLVED –**

- (a) That the report and discussion be noted.
- (b) That a further submission be made to the JCPCT in relation to the PwC report findings, which reinforced some of the points previously highlighted in the JHOSC's initial report.

**52 Review of Children's Congenital Heart Services in England: Children's Heart Surgery Fund (CHSF) - Update**

The report of the Head of Scrutiny and Member Development provided an updated from the Children's Heart Surgery Fund.

Sharon Cheng, Charity Director of the Children's Heart Surgery Fund addressed the meeting.

It was reported that at recent meeting of the CHSF Trustees it had been unanimously decided to pursue the possibility of submitting a Judicial Review in order to protect the interests of children and their families across Yorkshire and the Humber.

It was also requested that the JCPCT did not discount the 600,000 signature petition submitted from the Yorkshire and Humber region, as this had clearly not been considered as part of the consultation process.

**RESOLVED** – That the report and discussion be noted.

**53 Review of Children's Congenital Heart Services in England: Leeds Teaching Hospitals NHS Trust (LTHT) - Update**

The report of the Head of Scrutiny and Member Development invited representatives of Leeds Teaching Hospitals Trust (LTHT) as the current sole provider of Children's Congenital Heart Surgery in Yorkshire and the Humber to provide the Committee with an update following the recent High Court judgement and provision of additional information.

The Chair welcomed Stacey Hunter, Divisional General Manager, Children's Services, LTHT to the meeting.

The following issues were highlighted:-

- It was clear from the PwC report that people from Yorkshire and the Humber would not travel to Newcastle. Potentially, this could make Newcastle unsustainable in the future and put at risk children and families from the entire North East of the country.
- To date, the JCPCT had given inadequate consideration to the benefits of co-located services such as those available and routinely offered at LTHT. Any change in the availability of and access to such services was likely to represent a retrograde step for many children and families from across Yorkshire and the Humber.
- It was felt that the population density of Yorkshire and the Humber had not been given due consideration.

- The JCPCT had been asked to reconsider the provision of Adult Services as it was felt that such services should not be considered as part of a different review. – the outcome of which may be largely pre-determined.
- That LTHT remained in disagreement with the findings of Sir Ian Kennedy's Panel report, with a number of inaccuracies concerning the provision of services at LTHT remaining a concern.

In response to Members comments and questions, the following issues were discussed:

- While it was acknowledged that the JCPCT was not currently in a position to comment on the consultation process and outcomes, it was important for LTHT to continue to document its views on the position regarding the Safe and Sustainable Review.
- LTHT's continued lobbying for the provision of Adult Services to be included within the scope of the Children's review – a position supported by the JHOSC.

It was highlighted that the decision to review only Children's Services was not the decision of the JCPCT. Clear terms of reference had been given to the JCPCT at the outset of the review. The request for Adult Services to be reviewed in conjunction with Children's would be fed back. There was no indication as to when a review of services for Adults would be carried out.

The JHOSC reiterated its view that Children's and Adults Congenital Cardiac Services should not be the subject of separate reviews and should be reviewed together. By undertaking separate reviews, it was unclear how one review would not significantly impact/ pre-determine the outcome of the other review.

**RESOLVED** – That the Committee's view regarding undertaking separate reviews of Children's and Adults Congenital Cardiac Services remained and should be reiterated.

## **54 Date and Time of Next Meeting**

It was agreed to convene a future meeting of the Joint HOSC at an appropriate time, following any decision of the JCPCT.