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**Councillor John Illingworth**

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(sent by email only)  
3 April 2014

Dear Councillor Illingworth,

I write in response to your email of 11 March 2014 and other emails regarding your requests for information on behalf of the Yorkshire and Humber Joint Health Overview and Scrutiny Committee (JHOSC) made pursuant to the Local Authority (Public Health, Health and Wellbeing Boards, and Health Scrutiny) Regulations 2013 (Health Scrutiny Regulations).

NHS England agrees with you that requests for information under the Freedom of Information Act 2000 (FOIA) and the Health Scrutiny Regulations are two separate processes, but notes that the Health Scrutiny Regulations do not provide JHOSCs an unrestricted right to access information held by NHS England, nor an obligation to provide information in an unredacted format.

*Information required to be provided to the JHOSC*

As you are aware, Regulation 26 of the Health Scrutiny Regulations states that 'responsible persons' (such as NHS England) must provide local authorities or joint overview and scrutiny committees (such as the Yorkshire and Humber JHOSC) such information about the planning, provision and operation of health services in the area of the local authority/committee, as may reasonably be required by the authority/committee in order to discharge its relevant functions.

On this basis, the information that NHS England is required to provide in response to your request is not unlimited. NHS England is only required to provide that information which the JHOSC reasonably requires to discharge its relevant functions.

NHS England considers that, for present purposes, the JHOSC's relevant functions are those related to children's congenital heart disease services. However, you have made a very broad request (i.e. "*a complete and un-redacted disclosure of all the email correspondence, and associated letters and reports that refer to the Leeds Teaching Hospitals NHS Trust that have passed through Sir Bruce Keogh's office between 1 March 2013 and the present day.*"). It seems to us therefore that much of the information

thus sought would have no bearing on the JHOSC's ability to discharge the relevant functions here. Of course, should you consider we are wrong about that, we would be happy to hear from you with your reasons for that view. Alternatively, you may wish to narrow your request to ensure that it relates specifically to the JHOSC's functions in this matter.

Upon receipt of the necessary clarification, NHS England will provide you with the information that is reasonably necessary for the discharge of your functions. However, while we note your request for unredacted correspondence, NHS England is not required to provide information in this form, whether pursuant to Regulation 26 of the Health Scrutiny Regulations or otherwise.

*Redaction*

Regulation 26 includes restrictions on the information that can be released to the local authority/committee. In particular, we note that NHS England is not required to provide confidential information that relates to, and identifies, an individual, unless the person consents to that information being disclosed, or the information is (or can be) disclosed in a form from which the identity of the person cannot be ascertained. NHS England can also (and in fact must) properly withhold information where its disclosure would be prohibited by any other law.

However, the Health Scrutiny Regulations provide that if the only prohibition on the release of the information is the fact that it contains information capable of identifying a person, and the information can be redacted so that the identity of the person cannot be ascertained, then the information should be provided in that (redacted) form.

Accordingly, any information that you receive in due course may be provided in a redacted format, but the only information that will have been removed is that relating to individuals.

Regarding the JHOSCs request for Sir Bruce Keogh to attend on 10 April, unfortunately Bruce will be attending a family funeral that day and will not be able to attend. However, as you will be aware, I have been leading on such LTHT matters on his behalf and I will be happy to attend the JHOSC in my capacity as both his deputy and as Chair of the Risk Summit (April 2013).

I look forward to hearing from you.

Yours sincerely

**Dr Mike Bewick**  
Deputy National Medical Director  
NHS England