



Report of the Head of Scrutiny and Member Development

Scrutiny Board (Health)

Date: 25 May 2010

Subject: Renal Services in Leeds: Supplementary Report

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose of this Report

1.1 Following the Leeds Teaching Hospitals NHS Trust (LTHT) Board meeting held on 20 May 2010, the purpose of this report is to present the Scrutiny Board (Health) with an outline of some of the issues discussed and a summary of the decision regarding the provision of renal services in Leeds

2.0 Background

2.1 Issues associated with the provision of renal services in Leeds have been a significant consideration over the course of the current municipal year, which resulted in the production of a formal Scrutiny Board statement in December 2009.

2.2 At its meeting on 16 March 2010, the Scrutiny Board (Health) considered the formal response to its statement and recommendations on renal services, and were advised that the Trust Board was due to reconsider its position regarding the proposed dialysis unit at Leeds General Infirmary (LGI).

2.3 At that meeting, the Scrutiny Board (Health) agreed to review the Trust's Board final decision and consider any available and appropriate actions.

3.0 Report Issues

LTHT Board meeting – 20 May 2010

3.1 The LTHT Board met on 20 May 2010 and, as part of the scheduled agenda, considered a report regarding the Renal Haemodialysis Service (attached at Appendix 1). In addition, after the publication of the meeting agenda and the attached report, the following supplementary information was provided to Trust Board members:

- Renal Services - transport supplementary briefing (Appendix 2)
- Travel analysis – commissioned by the Kidney Patients Associated (KPA) (Appendix 3)

3.2 It should be noted that while this information was not formally submitted and considered at the Trust Board meeting, it is provided to the Scrutiny Board for completeness.

3.3 In addition, given the issues previously raised regarding patient transport data (as highlighted in Appendix 2), further assurance has been sought from Yorkshire Ambulance Service (YAS), regarding the information generated to inform the Trust Board's report. The response from YAS is provided at Appendix 4 for the Scrutiny Board's consideration.

3.4 In considering the information provided in Appendix 1, the Trust Board recognised its previous commitment, noted the concerns raised by the KPA and the Scrutiny Board (Health), and considered the conclusions of the regional Specialised Commissioning Group (SCG) in developing the regional strategy for renal services.

3.5 The Trust Board also received assurances from the Medical Director and the Chief Nurse regarding the safety and quality of renal services currently being provided in Leeds. Specific comments raised by members of the Trust Board included:

- Potential use of Wharfedale Hospital to deliver a satellite dialysis services: *The Trust Board was advised that the optimum size for such a unit would be 8 –10 dialysis stations, however this option had been discounted due to there being insufficient need.*
- Clarification of the number of patients likely to be affected by not providing dialysis facilities at LGI: *The Trust Board was advised that the number of patients likely to be directly affected was between 21 and 45. The Trust Board was further advised that at the time of the closure of the Wellcome Wing in 2006, 90 patients had been receiving their care at LGI – of which 25 were still receiving haemodialysis care.*
- Recognition of the Trust's responsibility to the wider community, in the context of a finite budget and the advice provided by the Medical Director and Chief Nurse regarding the safety and quality of current services.

3.6 Furthermore, the Chair of the Trust Board recognised that consultation arrangements, specifically related to renal services and the decision under consideration, had not been good enough and specifically requested a formal report from the Trust's Chief Executive on how improvements would be made around mechanisms to consult patients – specifically with regard to renal patients and more broadly.

3.7 As such, the Trust Board agreed to support the recommendations set out in the report presented (i.e. Appendix 1).

Scrutiny Board involvement

3.8 Over recent years, various aspects associated with the provision of renal services in Leeds have been significant considerations for the Scrutiny Board. Over the past 12 months or so, a number of issues have been re-examined in detail and new issues identified. This process has involved a full range of interested parties – both locally and regionally, and resulted in the production of a formal Scrutiny Board statement in December 2009.

- 3.9 At its meeting on 16 March 2010, the Scrutiny Board (Health) considered the formal response to its statement and recommendations on renal services. At that meeting, the Scrutiny Board agreed to review the Trust's Board final decision regarding the proposed dialysis unit at Leeds General Infirmary (LGI) and consider any available and appropriate actions.

Overview and Scrutiny of Health

- 3.10 Guidance produced by the Department of Health¹ sets out the responsibilities and powers associated with the legislation associated with scrutiny of the NHS by local authorities: It specifically addresses the duty placed on NHS organisations to consult appropriate local authority overview and scrutiny committees on any substantial change or development of local NHS services. In summary, the guidance outlines that:
- Where a NHS trust plans to vary or develop services locally, it should discuss the proposal with the overview and scrutiny committee to determine whether the proposal is substantial. If the outcome of those discussions is that it is a substantial development or variation, the trust must formally consult the overview and scrutiny committee.
 - In considering whether proposals are substantial, NHS bodies, committees and stakeholders should consider the general impact of the change upon patients, carers and the public who use or have the potential to use a service.

Referrals to the Secretary of State

- 3.11 The legislation that governs health overview and scrutiny makes provision for the referral of some issues to the Secretary of State (for Health) under certain circumstances. All circumstances relate to substantial changes or developments of local health services and relate to the consultation on proposals or the impact of the proposals being deemed as not in the interests of local health services. Further information on circumstances that may lead to such referrals, and subsequent action are detailed below.

Consultation on proposals

- 3.12 A committee may report an issue to the Secretary of State (in writing) where is not satisfied with the content of the consultation, does not believe sufficient time has been allowed or that the reasons given for not carrying out consultation are inadequate. Any such referral should make clear the grounds on which the committee has reached its conclusion. It should be noted that, in the context of inadequate consultation, the referral power for overview and scrutiny committees only relates to the consultation with the committee by the NHS and not consultation with other stakeholders.
- 3.13 On receiving such a referral, the Secretary of State may require the local NHS body to carry out such consultation (or further consultation) with the committee as considered appropriate. Where any such consultation has been required by the Secretary of State, the local NHS body shall, having regard to the outcome of such further consultation, reconsider any decision it has taken in relation to the proposal in question.

Interests of the health service

¹ Overview and Scrutiny of Health Guidance (July 2003)

- 3.14 Where a committee considers that the proposal is not in the interests of the health service in its area, it may refer the issue to the Secretary of State in writing who may make a final decision on the proposal. In such cases, the Secretary of State can require the NHS body to take such action or stop taking such action as may be directed.
- 3.15 Referrals on the basis of a proposal not being in the interests of the health service should also set out the grounds on which the committee has come to that conclusion.
- 3.16 Where a referral has been made, the Secretary of State may ask the Independent Reconfiguration Panel (IRP)² to advise on the matter. The IRP will wish to be satisfied that all options for local resolution have been fully explored. Only those contested proposals where it is clear that all other options have been exhausted are likely to be considered in detail by the panel. In these cases, the IRP may visit the local NHS body and will also consider the report and recommendations from the overview and scrutiny committee as part of its work.

Council Resolution

- 3.17 In considering the issues outlined in this report, members of the Scrutiny Board are also reminded of the following Council resolution from the meeting held on 21 April 2010:

'That this Council condemns the failure of the Leeds Teaching Hospitals Trust to fulfil its repeated promises to fund a City Centre Kidney Dialysis Unit at the Leeds General Infirmary.'

Council notes that since 2006 the City Centre has been without this vital health facility and has every sympathy with those patients who have to make time consuming journeys to receive this essential treatment at Seacroft and St James' Hospitals.

Council praises the good work done by Scrutiny Board Health on this issue and instructs the Chief Executive of Leeds City Council to write to the Secretary of State for Health to ask him to reconsider his decision not to intervene in this matter.'

- 3.18 On this basis, the Council's Chief Executive wrote to the Secretary of State for Health on 26 April 2010. However, it should be noted that, due to the timing of the Council meeting, the Trust's final decision was unknown at this time.

4.0 Summary

- 4.1 In setting out the recent decision of the LTHT Board, this report presents a range of information both publicly available and made available to the Trust Board to inform its decision. It also provides supplementary information provided by YAS in terms of the transport analysis commissioned by LTHT.
- 4.2 The report also sets out some of the legislative provisions associated with the scrutiny of the NHS – specifically around the circumstances where the Board may legitimately refer matters to the Secretary of State.

² The IRP is an advisory non-departmental public body. It has a chair and members drawn equally from health service professionals, health service managers and patients and citizens. The panel provides advice to ministers on proposals for NHS change in England that have been contested locally and referred to the Secretary of State

4.3 In considering the matters set out in this report, and if so minded to make a referral to the Secretary of State the Scrutiny Board are advised that:

- The power of referral to the Secretary of State should not be used lightly;
- Any referral that involves the engagement of the IRP is likely to cost several thousands of pounds and take a number of months to fully resolve;
- In considering whether a proposal is in the interests of the local health service, the board should consider the extent to which patients, the public and stakeholders more widely have been involved in the planning and development of the proposal;
- Only by full involvement activity will local NHS bodies be able to take a considered view as to whether its plans are in the interests of the local health service;
- Where possible, local resolution of issues is always preferable and a clear rationale will need to be identified and presented with any such referral. This will need to demonstrate that all avenues for locals resolution have been explored.

5.0 Recommendation

5.1 Members of Scrutiny Board are asked to consider the information presented in this report and determine any action appropriate deemed appropriate.

6.0 Background Papers

- Scrutiny Board (Health) – Renal Services report – 28 July 2009
- Scrutiny Board (Health) – Renal Services report – 24 November 2009
- Scrutiny Board (Health) – Renal Services report – 15 December 2009
- Renal Services in Leeds – Scrutiny Board statement (December 2009)
- Scrutiny Board (Health) – Renal Services in Leeds – Response to the Scrutiny Board’s statement and recommendations – 16 March 2010
- Scrutiny Board (Health) – Renal Services in Leeds: Update – 25 May 2010
- Overview and Scrutiny of Health Guidance – Department of Health, July 2003