Annexe One

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
<u>Leadership and Strategic Vision</u> KP was wrong to criticise the Trust's strategy as not giving sufficient emphasis to paediatric cardiac surgery: **Hunter** §21 [5/13/213]	Feedback letter [8/9/79] Kennedy Panel Report December 2010 [1/8/201]	Not raised by Trust (see Hunter w/s §21 [5/13/214]	C scored 3/5. 'Acceptable' C. did not know this. It appeared from the KP narrative 'compliance' that 'The Trust's overall strategy is clear, and demonstrates a clear direction of Travel for the Trust as a whole' One might have thought a score of '4' or '5' was appropriate. One couldn't guess that the matter mentioned in narrative would result in a score of '3' acceptable. Had Leeds known the scores they could have made submissions on this point as said in Hunter's statement.
<u>Strength of Network</u> KP was wrong to criticise the Trust's lack of plans to provide an effective Network in the north: **Hunter** §40.1- 40.3 [5/13/223-225	Feedback letter [8/9/79] KP Dec 2010 Report "no robust development plans" [1/8/204]	Response to consultation includes section on "future network arrangements" [3/1/12]	Having identified that the existing network was 'strong' Leeds only scored, 4, 4, 3 for the respective questions. 4 when they might reasonably have thought they would score 5, and 3, on the most weighted question, when they might reasonably have scored at least 4. Had they had the scores, Leeds could have focussed on these issues in their consultation response and sought a re-marking of these aspects of the assessment based on further evidence.

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
			Without the scores they did not know to what extent, if at all, the identified 'gaps in compliance' weighed with the Panel. They were have been shooting in the dark.
<u>Staffing and Activity</u> KP was wrong to criticise staffing capacity in PICU **Hunter** §41-43 [226-227]	Feedback letter [8/9/79] KP Dec 2010 Report – does not meet minimum activity thresholds and concerns about consultant cover for PICU [1/8/206]	Correspondence about PICU configuration alleged to be "factually inaccurate" [10/13/250-251, 10/15/256-257, and 10/19/271], KP Report October 2011 [3/4/63-64]	Again it is the scores that explain what weight if any, is attached to particular issues. The 400+ staffing and activity question was worth a maximum of 80 points. Leeds scored 3 x 16 =48), and would been able cogently to argue for a 4. That alone would have resulted in Leeds obtaining 16 more points overall. Leeds would have argued that objectively they should have scored better than Newcastle, on the basis of the evidence given. Newcastle however also scored 3. No such argument could be made without the scores.
<u>Staffing and Activity</u> KP was wrong to criticise the division of the PICU: **Blackburn** §10 [5/14/229-234]; **Darowski** §8-9, 11 [5/8/142-144]	Feedback letter [8/9/79] "concern about sustainability of current model for paediatric intensive care across two sites" KP Dec 2010 Report [1/8/206-207]	As above	Again, without the scores this is rather a meaningless item of 'non-compliance'. Based on the evidence it is able to provide Leeds would have been able to argue for a re-mark upwards. It seems that when KP agreed to recognise that the two PICUs were divided by a corridor

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
			and not located in different hospitals they did not concede that the thrust of the criticism should be withdrawn. Armed with the scores they could have pointed out that they provided consultant cover and Newcastle did not.
Interdependent Services KP failed to appreciate the value of co-location: **Darowski** §§13-15 [5/8/145-147]	KP Dec 2010 Report [1/8/167, 207]	Responses to consultation: Leeds [3/1/1-3, 8]; Darowski (Paediatric Critical Care Network) [16/15/276a-c]; CHSF [3/2/34-35]; JHOSC [12/5/43-46]. KP Report October 2011 [3/4/65-68] DMBC [3/7/169]	The point here is that it was the scores that mattered in comparison to Newcastle. Leeds scored 5,5,4 to Newcastle's 4,4,3. Leeds would have been able to argue in a focussed way for a 5, re. the 400+ question, where the only relevant criticism was the panel did not feel assured that there were strong plans in place to achieve the move of patients to the network. Leeds would also have been able to point out that the differential between Leeds and Newcastle did not represent what it perceived as the gulf between the centres.
Facilities and Capacity KP was wrong to mark Leeds down for having long waiting lists: **Illingworth** (2) §16(i) [5/10/166-167]	KP Dec 2010 Report "long-waiting lists ...not sufficiently identified as a risk [1/8/202] and "inefficiencies in current working practices" [1/8/209]	Not responded to by Leeds JHOSC response to consultation [12/5/47]	Again without the scores (Leeds in fact scored 3,3,3 to Newcastle's 4,4,4), Leeds could not mount a focussed attack on the supposed compliance deficiencies that resulted in a lower score. The issue (in the comparative

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
			assessment between Newcastle and Leeds) was worth 14 points overall. One can see from the KP report that Newcastle had a key gap in compliance '*concerns over capacity in PICU*'. Which does not appear to be reflected in its uniformly higher scores. Indeed one learns from Newcastle's self assessment template that an additional wing was required that could only be accommodated subject to funding **[CB1/2/28].** As Leeds has now learnt, the KP did not assess the financial viability of these plans at all.
<u>Leadership and Strategic Vision</u> Score for Estates and IT was unfair: recently reconfigured services and creation of Children's Hospital showed great leadership and vision Hunter §22-26 [5/13/214]	Feedback letter [8/9/79], Dec 2010 report [1/8/201]	Leeds refer to estate reconfiguration and Children's Hospital in self-assessment Template [1/3/45] and in Response to consultation [3/1/2-3] Hunter did not submit document referred to in her w/s §21	The same point as already made above. Without the scores Leeds could not know the importance or weight attached by the Panel to the matters identified in its narrative report. The focussed comments Leeds would have been able to make are articulated by Ms Hunter. They would have allowed Leeds to submit that Leeds ought to have scored 4 rather than 3 on two or three separate aspects of the assessment.
<u>Strength of Network</u> Differential in scores	Submission (formulated in §7	Submission made in Leeds' response to	The points above are repeated. Without the

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
should be greater: Illingworth §§39-41 [5/10/176]; Hunter §§27-40.3 [5/13/217-225]; Watterson (4) §§9-12 [5/9/154]	Counsel's written note 11.02.13) relies on KP Dec 2010 Report See also Note on PwC Report	consultation [3/1/7-8]; and JHOSC [17/1/17 §32]	scores, it is impossible to know what if any weight has been attached to what aspects of the identified 'compliance' or 'gaps in compliance' either in respect of Leeds in isolation, or in comparison with Newcastle. Leeds would have had a strong argument for a re-mark where Leeds only scored 4,4,3 to Newcastle's 3,4,3.
<u>Staffing and Activity</u> Scores not fair reflection of reality given Leeds had more staff and operating with waiting lists: Illingworth §42 [5/10/177], Hunter §42	Submission has no factual basis: centres have same staff patient ratio. See Kennedy w/s §35 [6/6/48] is a qualitative not numerical assessment KP Report Dec 2010 identified waiting lists as a risk [1/8/209]	Response to consultation compared L with N PICU [3/1/11]	Again, the point relates to the actual scores given under each heading. Armed with the scores a focussed criticism could be made that Leeds had been undervalued by the assessment panel on the basis of the objective evidence.
<u>Facilities and Capacity</u> Unclear why Newcastle scored so much higher than Leeds: Illingworth §42 [5/10/177]	No substantive submission is made. Sub-scores do not answer the question posed – why Newcastle scored higher		The sub-scores reveal that Leeds 3,3,3, scored lower than Newcastle 4,4,4, on each sub-question. Whether these are fair comparative scores knowing what Leeds knows about its own facilities and what it can read from the KP report about Newcastle's is precisely the sort of focussed submission Leeds would have been able to make.
<u>Age Appropriate Care</u> Scores do not reflect differences between the centres – Leeds children are	KP Dec 2010 report makes it clear Freeman is not an adult hospital. Hunter's repeated	Point made in Response to consultation [3/1/2-3]	Leeds scored 4,4,3, Newcastle 3,4,3. Yet Leeds children are treated in a dedicated

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
treated in a dedicated Children's hospital: Watterson §30-32 ; Hunter §44 [5/13/227]	assertion to contrary is incorrect. See Hasan (1) [5/16/249-253, 257] and (2)[5/17/297 - para 5.10: Watterson misunderstands relationship: Freeman unit operates as part of the Children's Hospital]		hospital and Newcastle is not. How Newcastle managed to score 4, to Leeds 3, on development plans is unexplained by the Kennedy narrative which says '*the panel did not deem all development plans complete as they did not demonstrate a grasp of the risks associated with sustaining the provision of age appropriate care'* **[CB1/8/169]** Leeds would have been able to make a focussed submission for a re-mrk, and an increase from 3 to 4.
<u>Interdependent services</u> Score did not properly reflect the differences: notably that Leeds is a single-site hospital Illingworth (2) §41(c) [5/10/177], failed appreciate value of co-location Darowski §§14, 16, 17 [5/8/146]	KP approach to assessment of co-location in Dec 2010 report [1/8/167, 207]	Point made by many respondents to consultation eg Leeds Response [3/1/1-3, 8]; JHOSC [12/5/43-46] Darowski [16/15/276a-c] Revisited in KP Report Oct 2011 [3/44/65-68]	The points above are repeated.
<u>Information and choices</u> Leeds should have got a higher score on "choices" to show respect for review's patient choice agenda; Watterson §47 [5/1/20]	The PwC work on patient flow is irrelevant to this criterion. This criterion is about ensuring patients and their families have access to good information and support	CHSF made the submission in consultation that indicated networks went against principle of patient choice [3/2/37] Considered and rejected by D (decided that was consistent with principle): DMBC [3/7/110] and 4/7 meeting [3/9/281-282]	PwC is not irrelevant. It is objective evidence that undermines the assumption that the Kennedy Panel truly assessed quality. The points above apply as to focussed submissions on issues by reference to the scores. On Information and Choices Leeds scored 4,4,3, to Newcastle's 3,3,3. The real focus would have been on

A. Witness complaint about KP assessment of Leeds	B. Communication of KP assessment during the Review	C. Was the issue addressed during the Review?	D. Claimant's response to D's submission
			Leeds' score of 3 on the 400+ question, particularly in the light of the very positive KP 'compliance' narrative at [**CB1/8/211]** and the limited area of non-compliance identified on the same page. This alone would have been worth 5 points.