

Cllr Peter Gruen
Chair, Scrutiny Board
Leeds City Council
3rd Floor Civic Hall
Leeds LS1 1UR

21 June 2017

Dear Cllr Gruen

Closure of the Leeds Bridle Path Blood Donor Centre in Seacroft

Thank you for your letter of 3 May 2017 regarding the above requesting a response by 30 June 2017 to the Scrutiny Board Statement that accompanied your letter.

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 define “a responsible person” as “a relevant NHS body or a relevant health service provider”. Examination of the primary legislation underpinning the Regulations confirms that the meaning of “relevant NHS body” and “relevant health service provider” is contained in section 244(3) of the National Health Service Act 2006 as amended by section 190(1) and (4) of the Health and Social Care Act 2012. Subsection (4) states:

- (4) For subsection (3) substitute—
- “(3) For the purposes of subsections (2) and (2ZA)—
- “relevant NHS body”, in relation to an authority to which this section applies, means an NHS body, other than a Special Health Authority, which is prescribed for those purposes in relation to the authority;
- “relevant health service provider”, in relation to an authority to which this section applies, means a body or person which—
- (a) provides services in pursuance of arrangements made—
- (i) by the Board or a clinical commissioning group under section 3, 3A, 3B or 4 or Schedule 1,
- (ii) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) or Schedule 1, or
- (iii) by the Board, a clinical commissioning group or a local authority by virtue of section 7A, and
- (b) is prescribed, or is of a description prescribed, for those purposes in relation to the authority.”

You may wish to seek advice from your own legal department but the IRP takes this section to mean that special health authorities are exempt from the requirements for health scrutiny by local authorities that apply to other NHS bodies.

The introduction of the Secretary of State’s four tests for service change (reconfiguration) was announced by the then Secretary of State for Health, Andrew Lansley, in May 2010. The tests, that apply to proposals for changes to NHS clinical services, are “*designed to build confidence within the service, with patients and communities*”. Guidance on the application of the tests was issued to all NHS chief executives on 29 July 2010. While it is not known by the IRP whether the guidance was intended to cover special health authorities

Independent Reconfiguration Panel

Tel: 020 7389 8045/6 E Mail: irpinfo@dh.gsi.gov.uk

Website: <https://www.gov.uk/government/organisations/independent-reconfiguration-panel>

(unlike the scrutiny legislation, it does not appear specifically to exclude them), it seems reasonable to the Panel that any proposal to implement a clinical service change should be subject to evaluation against the four tests, including the strength of public and patient engagement.

The NHS, and indeed, the government is committed to the principle of public and patient involvement in NHS service development. Much guidance has been issued to the NHS in this respect. The IRP agrees with the broad thrust of your Statement that there are lessons to be learnt for the future and hopes that, moving forward, the parties involved in this matter can work together in a spirit of co-operation, openness and transparency.

Yours sincerely

Martin Houghton
Secretary to IRP