Councillor John Illingworth
Chair, Scrutiny Board
(Health and Wellbeing and Adult Social Care)
3rd Floor (East)
Civic Hall
LEEDS LS1 1UR

E-Mail address john.illingworth@leeds.gov.uk
Civic Hall Tel. 0113 39 50456
Civic Fax 0113 24 78889
Your ref
Our ref LM/SMC
Date 5 July 2012

Sir Neil McKay (Chair, JCPCT)
NHS Specialised Services
Safe and Sustainable Programme
2nd Floor, Southside
105 Victoria Street
London
SW1E 6QT

Dear Sir Neil,

Re: Review of Children's Congenital Cardiac Services in England

Further to my previous letter, 3 July 2012, and following attendance at yesterday's JCPCT meeting, I am writing to express my deep concern and frustration at the way yesterday's meeting proceeded.

Firstly, I would like to make reference to the Department of Health Guidance Document '*Code of Practice on Openness in the NHS*' (August 2003). I would make specific reference to paragraph 2.1 with the document, which states:

> *'**NHS Trusts and PCTs are required to hold their board meetings in public. An agenda, papers**, the accounts and the annual report **must be publicly available at least 7 days in advance of the meeting**. **Provision must be made for questions and comments to be put by the public**. Public meetings must be held in readily accessible venues and at times when the public are able to attend'*

This was clearly not adhered to for yesterday's meeting – with an agenda only being released on Friday, 29 June 2012 at around 17:40hrs (which is itself clearly outside what would be considered normal office hours). In addition, the *Decision-Making Business Case* document, which formed the basis of many references at yesterday's meeting and sets out a number of recommendations that the JCPCT was asked to accept, was not publicly available until after the decision had been reached. I find this wholly unacceptable and clearly outside the minimum standards set out by the Code of Practice, let alone the norms one would expect in a free and democratic society.

Furthermore, while there was an opportunity for comments from those in attendance at yesterday's meeting, not only were the documents and reports considered by the JCPCT not available, but there was also no prior notification within the limited documentation available beforehand that this would form part of the meeting.

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The approach did not allow sufficient time for proper preparation by those attending – which was clearly demonstrated and reflected by the limited comments made. In addition, as the meeting progressed it became increasingly evident that the comments made were of little consequence and never had any chance of affecting the outcome or influencing the decision – turning the meeting into little more than an orchestrated charade.

It was clear that the level of information presented and referred to at yesterday's meeting was very significant. However, it saddens me to say, the overall level of questioning, challenge and general interrogation (of the information presented) by members of the JCPCT clearly demonstrated that the 'real decision' had been taken some time previously – behind closed doors and away from the public gaze. I felt the approach towards yesterday's meeting displayed a level of amateurish behaviour that one would not expect to associate with decision-making in the NHS. Indeed, I feel Sir Roger Boyle's comment around '…well rehearsed discussions…' just about summed up the entire proceedings. The meeting process was certainly something that would not be tolerated in local government and I feel very strongly that it is something that should not be tolerated in the NHS – particularly when considering the significance of the subject matter and decision taken.

In my experience, which extends beyond 30 years as a local councillor, the arrangements around a meeting become an issue when the decision-making process, the evidence base and/or interpretation of the evidence base is flawed. Therefore, as Chair of yesterday's meeting, I would be grateful if you could outline both the source and content of the advice you received around the arrangements for yesterday's decision-making meeting and explain why this was so clearly outside the requirements set out by the Department of Health Code of Practice.

As outlined in my previous letter, given the continued assurance you have provided around formally responding to the report and recommendations put forward by the Joint HOSC, I was surprised that there was no specific consideration of this at yesterday's meeting. I was particularly curious to see no formal consideration of the alternative configuration put forward by the Joint HOSC. I would be grateful if you could confirm at what point JCPCT members actually considered the Joint HOSC's report and agreed its associated response to it. I would be particularly grateful if you could confirm at what point the alternative configuration model was considered and, seemingly, dismissed. In so doing, I would be grateful if you could provide information on the detailed scoring and consideration that the alternative configuration received – as this was clearly not evident at yesterday's meeting.

As Chair of the Joint HOSC I would also ask you provide the agendas, reports and minutes of any (formal or informal) meeting of the JCPCT and its secretariat, associated with the drafting and agreement of the *Decision-Making Business Case* document. In my view, such information may form a key part of the Joint HOSC's consideration of yesterday's formal decision and the processes leading up to it.

In addition, I must take exception to some of the comments made at yesterday's meeting by the Safe and Sustainable Programme Manager, Mr. Jeremy Glyde. During the course of the meeting, Mr Glyde made reference to a letter from my predecessor and former Chair of the Joint HOSC, Cllr. Lisa Mulherin. **Mr. Glyde stated that in a recent letter (dated 21 May 2012) Cllr. Mulherin had requested that the JCPCT consider a lower than 400 surgical procedures standard during its decision making process**. I have enclosed a copy of that letter for ease of reference and it is clear that **this is categorically not the case** and there is no suggestion that the standard for surgical procedures should be lowered.

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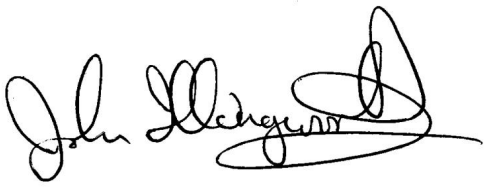
It is clear that the letter seeks to reinforce the points previously made about the consideration of adult surgical procedures within the totality of procedures undertaken at existing surgical centres. I believe this is a significant misreporting of the facts and deliberate misrepresentation of the evidence – which is also evident in your recent response to Greg Mulholland MP and subsequent letter published in the Yorkshire Evening Post.

I am sure you will agree that future of children's congenital cardiac surgery has been and will continue to be a very emotive issue for the foreseeable future. As such, it is even more important to have absolute clarity in all public statements and I would, therefore, request that both you and Mr. Glyde issue a written apology to Cllr. Mulherin and public retraction of the comments made.

In conclusion, I feel that yesterday's meeting was mere lip service to those affected by the decision – and again re-emphasised the democratic deficit that has been far too evident during the review process. However, I would also like to make it clear that the not insignificant issues I have highlighted in this letter are distinct from yesterday's decision – the merits of which will, as outlined in my previous letter, be duly considered by the Joint HOSC in the near future.

I look forward to your response in the near future.

Yours sincerely



Councillor John Illingworth
Chair, Joint Health Overview and Scrutiny Committee (HOSC), Yorkshire and the Humber

cc All Members of the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber)
Cllr. Lisa Mulherin, Leeds City Council
Jeremy Glyde, Safe and Sustainable Programme Director (NHS Specialised Services)
Andy Buck, Chief Executive (NHS South Yorkshire and Bassetlaw)
Cathy Edwards, Director of Specialised Commissioning, North of England Specialised Commissioning Group (Yorkshire and the Humber Office)
Ms Maggie Boyle, Chief Executive (Leeds Teaching Hospitals NHS Trust)
Yorkshire and Humber Council Leaders
Yorkshire and Humber Members of Parliament