

Cllr. Illingworth
Chair Scrutiny Board (Health and Wellbeing)
Leeds City Council
Democratic Services
Scrutiny Support Unit
1st Floor West, Civic Hall
Leeds
LS1 1UR

2nd Floor, Southside
105 Victoria Street
London SW1E 6QT
020 7932 3128

11 September 2012

Dear Councillor Illingworth

I write in response to your recent correspondence regarding the continuing scrutiny of the JCPCT's decision of 4 July.

I am sorry if you feel that there has been less than full disclosure of documents but I do not agree that the secretariat has acted in a less than reasonable manner. I and my colleagues have endeavoured to provide you with relevant information in a timely manner.

The JHOSC's decision to refer the JCPCT's decision to the Secretary of State for Health was made on 24 July; at that meeting the JHOSC members were in agreement that they were in possession of the necessary information and evidence needed to make an informed referral to the Secretary of State.

At the meeting I agreed to provide you with reasonable assistance in collating the relevant information, whereas subsequent correspondence from you suggests a wish to review new sources of information. It should not be necessary to review additional information given the informed decision that was made by the JHOSC on 24 July, but I have responded reasonably to your requests.

The power of the JHOSC to make its referral comes from the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 which allow referrals to be made on grounds:-

- Consultation with the OSC being inadequate in relation to content or time allowed; or
- Where an OSC considers that the proposal would not be in the interests of the health service in the area of the committee's local authority.

Clarification on the latter ground is given in "Overview and Scrutiny of Health – Guidance" published by DH in 2003. Paragraph 10.6.7 states: *"In referring whether a proposal is in the interests of the health service a committee 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 will NHS bodies be able to take a considered view as to whether its plans are in the interest of the health service for which it is responsible"*.

Paragraph 5 of the 2002 Regulations makes it clear that OSCs are entitled to be provided with such information about the planning, provision and operation of health services in the area of that committee's local authority as the committee may reasonably require in order to discharge its functions.

Requests for information from the JHOSC should be limited to that which it reasonably needs to support the referral that it has decided to make, but no more than that. It is not reasonable for the JHOSC to demand information that goes outside that scope. You will recall that the Secretary of State has previously decided that the JOSC had been supplied with all the information that it reasonably needed to discharge its functions on the previous occasion that the JHOSC had made that complaint to the Secretary of State for Health.

I have also previously confirmed with you that you have made repeated requests for information which we do not hold or which we have already published.

In supplying the additional documentation yesterday, in addition to the information that you have already received, it is my view that the JCPCT has more than met its obligations to the JHOSC.

For the avoidance of doubt and in response to your specific points:

Your email of 17 August

1. Copy of the Children's Heart Federation questionnaire and the raw data

I have previously advised you in a telephone conversation that we do not hold the 2009 questionnaire, which is held by the Children's Heart Federation, nor the raw data which presumably is held by Ipsos Mori.

2. URL to access 'New Vision for Children's Heart Services in England'

This has previously been emailed to you by my office.

3. Final Health Impact Assessment – page 68

I am informed by the independent authors of the report (Mott McDonald) that you have identified a typographical error. However, Mott McDonald has confirmed that they have used the correct numbers in their calculations and that the JCPCT did receive the correct information for the purpose of decision-making. The discrepancy in this table has no material impact on the Health Impact Assessment's conclusions.

Your email of 23 August

4. Electronic copy of the index of documents

This has previously been emailed to you by my office.

Your email of 29 August

5. Reports of congenital cardiac services workshop (2006)

Although the 'web link' incorrectly refers to '2009', both documents can be found on the webpage with the correct date within the title and text. In response to your query around possible amendments made in 2008, we do not hold any further versions of the report, which was published by the Department of Health.

6. Reconciliation of options

Of the fourteen options considered by the JCPCT before public consultation, six of them were regarded to be viable at the time; details can be found at pages 87 – 88 of the consultation document, which was published on 1 March 2011. The JCPCT then considered twelve viable options before making a decision in July 2012; details can be found at pages 60 – 64 of the Decision Making Business Case, published on 4 July 2012.

7. List of documents and publication dates

The register previously provided to you by my office includes the publication dates.

8. Individual panel scores

For the reasons set out in my letter of 17 August, I have decided that it would be unreasonable to disclose the individual scores.

Your email of 31 August

9. Legal advice

I will not be sharing information which is legally privileged. This is perfectly appropriate and reasonable in accordance with the proper conduct of legal and scrutiny proceedings and with the requirements of the Freedom of Information Act.

10. Papers from the Steering Group and Standards Group

The JHOSC's powers apply to the scrutiny of a decision (in this case, that made on 4 July 2012) which is made by the decision maker (in this case, the JCPCT). The powers do not extend to scrutinising third party groups, such as a separate advisory group. The outputs of the Steering Group relied upon by the JCPCT in the decision making process were published in full as appendices to the Decision Making Business Case on 4 July and are thus available to you, and minutes of the Steering Group meetings have been published on our website since April 2009. I do not agree that the terms of reference for the Steering Group were an 'after thought'; the minutes record how the terms of reference were revised between

2008 and 2010 to reflect the changing role of the Steering Group in view of the establishment of the JCPCT in 2010.

11. Secretariat

The secretariat is not the same as the advisory group. The secretariat is the Safe and Sustainable team based within the National Specialised Commissioning Team. It has been responsible for managing the process of review and consultation. When you and I spoke by telephone on 7 September I suggested that your use of the words 'shadowy' to describe the team was unhelpful.

12. Health Impact Assessment Steering Group

The information you request was published as an appendix to the Decision Making Business Case on 4 July. You have also referred to this group as being 'shadowy'. The group was independently chaired by Professor Michael Simmons and included as a member a Consultant Paediatric Cardiologist from Leeds Teaching Hospitals NHS Trust.

13. Revised Kennedy scores

The panel's scores were never revised. The JCPCT only ever received one set of scores from the panel, in July 2010.

I would be grateful if you to let me know whether there is any further relevant evidence that the JHOSC reasonably needs to properly discharge its powers of scrutiny. Otherwise can you please let me know the timeline for submission of your referral to the Secretary of State for Health.

Yours sincerely



Jeremy Glyde
Safe and Sustainable Programme Director

