

**Councillor John Illingworth**

 Chair, Scrutiny Board  
 (Health and Wellbeing and Adult Social Care)  
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 Civic Hall  
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 Rt Hon Andrew Lansley MP  
 Secretary of State for Health  
 Department of Health  
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 79 Whitehall  
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 Civic Hall Tel. 0113 39 50456  
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 Your ref  
 Our ref JI/SMC  
 Date 15 August 2012

Dear Secretary of State,

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

As you will be aware, on 4 July 2012 the Joint Committee of Primary Care Trusts (JCPCT) established following configuration for Congenital Heart Networks:

Area	Specialist Surgical Centre	Potential / existing Children's Cardiology Centre
The North	Freeman Hospital, Newcastle	Leeds General Infirmary (potential)
The North West and North Wales	Alder Hey Children's Hospital, Liverpool	Royal Manchester Children's Hospital (existing)
The Midlands	Birmingham Children's Hospital	Glenfield Hospital, Leicester (potential)
London, East Anglia and the South East	Great Ormond Street Hospital for Children and Evelina Children's Hospital	Royal Brompton Hospital (potential)
The South West	Bristol Royal Hospital for Children	University Hospital of Wales, Cardiff (existing)
South Central	Southampton General Hospital	John Radcliffe Hospital, Oxford (potential)

Following the JCPCT's decision, the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) (Joint HOSC) considered this decision and the associated Decision-Making Business Case at a meeting held on in Leeds on 24 July 2012.

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I am writing to advise you that the outcome from that meeting was a unanimous agreement (in principal) to refer the JCPCT's decision for your consideration on the basis that the proposals are not in the interest of local health services across Yorkshire and the Humber.

Furthermore, on 25 July 2012 Leeds City Council's Health Overview and Scrutiny Committee met and considered the outcome of the Joint HOSC's meeting and subsequently agreed (in principal) to refer the JCPCT's decision for your consideration on the basis that the proposals are not in the interest of local health services in Leeds.

Each referral is in accordance with the provisions set out in the Health and Social Care Act (2001) (as amended) and the associated regulations<sup>1</sup> and guidance<sup>2</sup>.

You will appreciate the review of Children's Congenital Cardiac Services has taken over 3 years to conclude and follows national public consultation undertaken in 2011. As such, there is a large volume of information (within the Decision-Making Business Case, the Pre-Decision Business Case and associated information) that requires detailed consideration and careful analysis to support each of the referrals detailed above. Work in this area is currently underway and a range of additional information has been requested from the Safe and Sustainable review team and further information is also likely to be identified in the near future.

Please be aware that at the time of writing this letter, I am yet to receive a range of additional information I believe is both relevant and necessary for the work of scrutiny – some of which relates to details requested by my predecessor, Cllr. Lisa Mulherin, that was withheld by the Safe and Sustainable Team during the consultation period.

You will recall that as part of the national consultation in 2011, the Joint HOSC submitted a detailed and comprehensive report to the JCPCT. This report supported the retention of Leeds as a designated surgical centre for the benefit of the 5.5 million population of Yorkshire and the Humber. The Joint HOSC believes that many of the issues identified in that initial report remain valid and have not been satisfactorily addressed by the JCPCT and its decision on 4 July 2012. A copy of the Joint HOSC's initial report was previously provided to you in October 2011, and is available using the following link:

<http://democracy.leeds.gov.uk/documents/s60806/1%20Review%20of%20Childrens%20Congenital%20Cardiac%20Services%20-%20Joint%20HOSC%20final%20report.pdf>

Nonetheless, subject to the timely provision of additional information and following agreement with the respective Overview and Scrutiny Committees, I hope to provide further supporting information for each referral during September 2012. I will write to you again on this matter in due course.

Notwithstanding the details above, I would also like to take this opportunity to highlight my disappointment and deep concern that, in full knowledge of the Joint HOSCs decision to refer the JCPCTs decision for your consideration, on 6 August 2012 the Safe and Sustainable Team published an outline implementation plan with a series of key dates – some as early as August 2012.

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<sup>1</sup> The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002

<sup>2</sup> Overview and Scrutiny of Health – Guidance (Department of Health (July 2003))

While I understand it is important to plan ahead, I think it is equally as important to reflect on and recognise other legitimate processes that might impact on such forward plans. However, the Joint HOSCs decision to refer the JCPCTs decision for your consideration is nowhere to be seen within the implementation plan itself, or indeed the supporting release statement published on the Safe and Sustainable website.

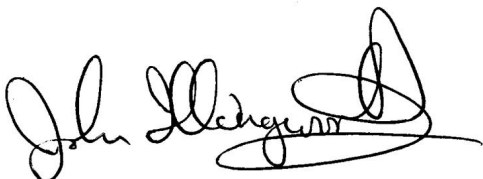
As you will be aware, the scrutiny referral process is a recognised process within any substantial NHS reconfiguration plans that I believe should at the very least be recognised as having a potential impact on any subsequent implementation. I believe this further demonstrates a lack of awareness (or possibly a high degree of indifference within parts of the NHS) to the legitimate scrutiny process, and I would welcome your comments in this regard.

I would also seek your personal assurance that any activity associated with the implementation of the JCPCTs decision is strictly limited to those areas which would not be affected by any recommendations to alter or amend the JCPCTs decision as a result of any scrutiny referral and any subsequent review undertaken by the Independent Reconfiguration Panel.

I forward to hearing from you in this regard as soon as possible. Meanwhile, should you need any clarification and/or additional information, please do not hesitate to contact me.

Yours sincerely

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Illingworth', with a large, stylized flourish at the end.

**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)  
All Members of Parliament (Yorkshire and the Humber)  
All Yorkshire & Humber Local Authority Leaders  
Cllr. Lisa Mulherin, Leeds City Council

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Your ref	
Our ref	JI/SMC
Date	7 September 2012

Sent by post and e-mail

Dear Secretary of State,

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

Following your very recent appointment as Secretary of State for Health, I wanted to take this early opportunity to write to you and draw the above matter to your attention.

As context, please find attached a copy of the letter sent to your predecessor on 15 August 2012 – which sets out the intention of the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) (Joint HOSC) to refer, for your consideration and assessment, the decision of the Joint Committee of Primary Care Trusts (JCPCT) concerning the future configuration and delivery of children's congenital cardiac services in England.

As outlined in the attached letter, I have been carefully studying the voluminous information provided by the Secretariat in support of the JCPCT decision. I believe there are some arithmetical issues around the scoring system used to support the JCPCT's decision and it also appears that some key papers have not been readily available. As such, I have been pressing the Secretariat to make a more complete disclosure of information related to the review and associated decision-making processes. I should remind you that the current regulations around scrutiny referrals require the Joint HOSC to provide details to support its case. However, the continuing delays in obtaining information from the JCPCT and its Secretariat are having an impact on the ability of the Joint HOSC to prepare and agree its final report.

Unfortunately I fear that the Joint HOSC is being so hampered in its attempts to gather all the information necessary to complete its report that it may no longer be possible to achieve the September target originally outlined in the attached letter. I feel obliged to draw this problem to your attention.

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Nonetheless, from some of the information provided to date, it is clear that most of the JCPCT meetings and the deliberations of the Steering Group / numerous working groups have taken place in private. As such, they have not been subject to effective public scrutiny. Furthermore, I believe the unwillingness of the the JCPCT and its Secretariat to release the information requested is contrary to the *Code of Practice on Openness in the NHS (August 2003)* and the basic principle of responding positively to requests for information – regardless of the statutory role of the Joint HOSC.

My concerns about a published implementation plan remain and I am still awaiting assurance that any activity associated with the implementation of the JCPCTs decision is strictly limited to those areas that will not be affected by outcome of any subsequent review undertaken by the Independent Reconfiguration Panel and any subsequent recommendations to alter or amend the JCPCTs decision.

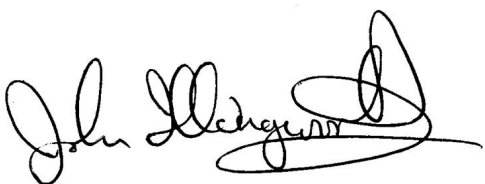
As part of the national consultation on proposals in 2011, the Joint HOSC submitted a detailed and comprehensive report to the JCPCT. This report supported the retention of Leeds as a designated surgical centre for the benefit of the 5.5 million population of Yorkshire and the Humber. The Joint HOSC believes that many of the issues identified in that initial report remain valid and have not been satisfactorily addressed by the JCPCT and its decision on 4 July 2012. A copy of the Joint HOSC's initial report was previous provided to you in October 2011, and is available using the following link:

<http://democracy.leeds.gov.uk/documents/s60806/1%20Review%20of%20Childrens%20Congenital%20Cardiac%20Services%20-%20Joint%20HOSC%20final%20report.pdf>

While I appreciate these are very early days in your new role, and there will be many issues for you to consider, I believe the issues raised by this review and the JCPCT's decision warrant your close attention.

Should you need any clarification and/or additional information, please do not hesitate to contact me, otherwise I look forward to your response in due course.

Yours sincerely



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

Enc.

cc All Members of the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber)  
All Members of Parliament (Yorkshire and the Humber)  
All Yorkshire & Humber Local Authority Leaders  
Cllr. Lisa Mulherin, Leeds City Council

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Your ref	
Our ref	JI/SMC
Date	31 October 2012

Sent by post and e-mail

Dear Secretary of State,

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

Further to my previous letters dated 15 August 2012, 7 September 2012 and copy of the letter to the Chief Executive of the NHS (dated 2 October 2012), I wanted to take this opportunity to write again in light of the recent announcement that the Independent Reconfiguration Panel (IRP) has been invited to undertake a full review of the decisions of the Joint Committee of Primary Care Trusts (JCPCT) concerning the future configuration and delivery of children's congenital cardiac services in England.

As previously advised, on 5 July 2012 – immediately after the JCPCT's decision the previous day – in my capacity as Chair of the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) (Joint HOSC), I initially wrote to the Chair of the JCPCT (Sir Neil McKay) requesting:

*“... 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.”*

Despite meeting some considerable reluctance, I have made some significant progress in this regard – albeit over a protracted period of time. However, I have not secured the full level of disclosure that I had hoped – something which was also experienced by my predecessors. It is highly likely that such matter will be emphasised in the Joint HOSC's report.

However, given the recent announcement that the IRP will be undertaking a full review of the JCPCTs decisions, I recognise the growing urgency to complete and agree the report to support the Joint HOSC's referral. Please be advised that I intend to convene a meeting of the Joint HOSC on 16 November 2012 in this regard.

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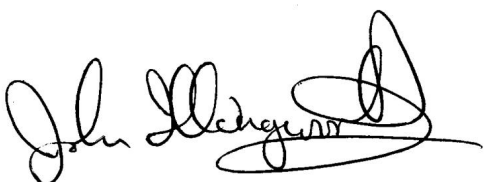
Subject to the completion of the Joint HOSC's referral report and an initial assessment by the IRP, I trust the issues raised will be given full consideration as part of the IRP's review and be reflected in any revised Terms of Reference that may be issued.

Please also be aware that I am currently drafting a complaint to the Information Commissioner's Office regarding the JCPCT's non-disclosure of information requested.

I trust this information is useful and hope to contact you again in the very near future with the Joint HOSC's finalised referral report.

Meanwhile, should you have any queries and/or need any additional information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Illingworth', with a large, stylized flourish at the end.

**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)  
All Members of Parliament (Yorkshire and the Humber)  
All Yorkshire & Humber Local Authority Leaders  
Cllr. Lisa Mulherin, Leeds City Council

**From:** Illingworth, Cllr John  
**Sent:** 06 November 2012 15:03  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** Second complaint about the NHS Specialised Commissioning Team NSCT

Dear Secretary of State

### **Reconfiguration of Children's Heart Surgery**

In referring my complaint [attached again below] to the Information Commissioner under the Freedom of Information Act, I also drew attention to the simultaneous breach of Statutory Instrument 2002 No. 3048, which is the **Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002**. I anticipate that this aspect might be of particular concern to you as the appropriate Secretary of State. If these regulations are not observed correctly, I believe much of the regulatory framework that Parliament has put in place for the Health Service will fail to operate as intended.

It is over a month since I raised these issues with the Chief Executive of the NHS, Sir David Nicholson. Although I am assured that his response is in the pipeline, at the time of writing this note, it has yet to appear. Meanwhile, the Joint Health Overview & Scrutiny Committee for Yorkshire & the Humber (JHOSC Y&H) is under pressure to submit its comments on the reorganisation of paediatric cardiac services to the Independent Reconfiguration Panel as rapidly as possible. This will allow the JHOSC Y&H to contribute to the review of the proposals that you have already commissioned. It is, however, difficult to see how the JHOSC can comment effectively on important aspects of the proposed reorganisation when its members have been needlessly and unlawfully denied access to vital evidence necessary to reach an informed conclusion.

It is now four months since I first requested more information from Sir Neil McKay and the NHS Specialist Commissioning Team. My request was initially couched in general terms, because so much of the NSCT business had previously been conducted in secret. When part of this information was released it became possible to frame my requests with greater clarity. Unfortunately this has not been matched by any corresponding openness from NSCT. Lack of transparency has previously been an issue during the public consultation in 2011. The public were assured that things would be better in the future. Sadly, such improvement has yet to take place.

The NSCT seems to have little comprehension of the scrutiny process, and has tried to impose artificial restrictions on the issues that the JHOSC can consider. Despite the volumes of information that have been released, we have been selectively denied precisely that information that is required for effective scrutiny. Nevertheless, the Statutory Instrument is admirably clear, and makes it plain at section 2 (1) that "*An overview and scrutiny committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area of its local authority.*" When will your Department intervene to uphold the law?



We all agree that “quality” is very important, but people in Yorkshire and the Humber are concerned that some NSCT advisors and speakers very publicly expressed their views on quality long before the assessments were complete. JHOSC members wish to examine the adequacy of the assessments conducted by NSCT on the quality of care provided in Leeds, compared with other areas of the country. Concerns have been expressed about the transparency of the Kennedy Panel and whether the process adopted really measured quality at all. This issue has recently been brought into sharper focus by the tragic events in Bristol, where the Care Quality Commission has published adverse comments about a unit that was highly rated by Sir Ian Kennedy and NSCT.

The JHOSC therefore asked to see a breakdown of the quality scores awarded by the Independent Expert Panel chaired by Sir Ian Kennedy. This request was initially and appropriately made during the public consultation in 2011, when it was refused by NSCT. This refusal appears to have no basis in logic and it is questionable whether it ever had any basis in law. It seriously undermined the public consultation, and made it very difficult for anybody to challenge the assessment process at the most sensible time. Part of the scoring was released after the “final” decision had been taken on 4 July 2012, but these were merely “consensus” scores, easily influenced by a single strong-minded member of the group. We want to see the individual scores, independently awarded by each assessor for each aspect of the assessment process. Given the enormous emphasis continually placed on so-called “quality” at every stage of the review, it is really difficult to understand on what legal, moral or practical basis our request can be refused.

The Health Scrutiny Regulations make it plain that the Scrutiny Committee decides what information it requires in order to do its job. Section 5 (1) states: *“Subject to paragraph (3), it shall be the duty of a local NHS body to provide an overview and scrutiny committee 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.”* Not only do JHOSC members reasonably require sight of the individual Kennedy scores, they also reasonably require access to the various reports considered by JCPCT and its numerous advisory committees. Access to detailed reports is an important feature of local government legislation, because Parliament has recognised that the minutes alone do not provide sufficient information. Thus far the only reports released by JCPCT are those considered in public on the two occasions when the public were admitted to the proceedings. Fourteen other JCPCT meetings took place in secret, and for these meetings not one single report has so far been released.

It is increasingly clear that the JCPCT did not operate in isolation, but was advised and, in my view controlled by a plethora of shadowy advisory committees, appointed in secret and accountable to nobody. I have received some of the minutes (but no reports) from a few of these bodies, but for others absolutely nothing has been released. The extent of my knowledge is that they met in secret and apparently decided something important. Perhaps the most extreme example is the Health Impact Assessment Steering Group, for which we have neither the agendas, nor the minutes, nor the reports. We do, of course, have the Health Impact Assessment itself, but this was produced by another organisation, Mott MacDonald, subject to the secret instructions that the Steering Group allegedly provided. How ludicrous is this? The Health Impact Assessment is absolutely central to the Scrutiny process. It defines the detailed service impacts on the people we represent. It is known to contain serious arithmetical mistakes. How can the Secretary of State possibly justify a situation where the public body, whose primary function is to safeguard the Public Interest against the overweening power of the Executive, is selectively denied access to the very papers which are central to its work?

The completely indefensible situation in relation to the Health Impact Assessment is at odds with the assurances provided by the JCPCT during the public consultation in 2011. Here the creation of the Health Impact Assessment steering group was announced with considerable fanfare in the Pre-Consultation Business Case. Terms of Reference for the HIA Steering Group were defined around page 212 of this principal consultation document. These included at section 2.5 Secretariat, the duties of the **Project Coordinator**:

- *Ensure the provision of a secretariat function that supports the HIA Steering Group in:*
  - *distributing the papers for each meeting, at least five working days in advance.*
  - ***preparing the minutes and distributing them within 10 working days of the meeting and disseminating them on the project website. All relevant papers, including minutes, once ratified, may be circulated by members and will be published on the NHS Specialised Services website unless they are clearly marked confidential.***
  - *submitting the minutes and reports to the JCPCT as appropriate and when relevant.*

It appears that the original intention was to publish these records from the HIA Steering Group, and that the public were misled by the JCPCT consultation documents. Please could the Secretary of State explain why these HIA Steering Group records have not been published as originally envisaged?

These problems result entirely from an excessive, inappropriate and wholly unnecessary level of secrecy surrounding the work of the NHS Specialised Commissioning Team. It is difficult for me (and no doubt others) to have confidence that this organisation is working properly and delivering good value for money for the benefit of all patients across the country.

I urge you to use your powers as Secretary of State to ensure that NSCT operates with greater openness and transparency, and that senior NHS administrative staff actually carry out the policies that Parliament has agreed.

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