

Councillor John Illingworth

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Your ref	
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Sent by e-mail only

Dear John,

**RE: Yorkshire and the Humber Joint Health Overview and Scrutiny Committee –
new review of Congenital Heart Disease (CHD) services**

Thank you for your letter, dated 28 November 2013. However, I am extremely disappointed by NHS England's stance regarding the invitation to attend the Yorkshire and the Humber Joint Health Overview and Scrutiny Committee (JHOSC) on 11 December 2013.

The invitation for a '*...suitable representative to attend...to specifically discuss progress of the new review.*' was e-mailed on 19 November 2013. This invitation set out the date, time and venue of the meeting, along with details of the provisional agenda.

NHS England was also given the opportunity to provide a written brief summary ahead of the meeting – although it was emphasised this would need to be provided no later than 2 December 2013.

As you may be aware, Regulation 27(1) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 provides that, "a local authority may require any member or employee of a responsible person to attend before the authority to answer such questions as appear to the authority to be necessary for discharging its relevant functions". In addition, Regulation 27(2) provides "...it is the duty of any such member or employee to comply with any such requirement". It seems to me that in declining the invitation to attend the JHOSC meeting on 11 December 2013, NHS England is failing to comply with its legal duty in this regard.

Notwithstanding the statutory legal framework that underpins local authorities' health scrutiny function, given events associated with the previous Safe and Sustainable review and proposals for Children's Congenital Heart Services in England, I feel it is also pertinent to highlight the following extracts and recommendation 14 from the Independent Reconfiguration Panel's advice associated with the previous review:

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- 5.9.1 *The Panel accepts that undertaking the first national consultation of proposed changes to a complex, high profile service was not an easy task and it is clear that the NHS expended considerable effort to support engagement and consultation. **The need to engage with HOSCs was identified early in the process and was a particular challenge given the absence of a national representative body. However, the approaches by a number of HOSCs around the country, such as those in Yorkshire and the Humber, to form a regional joint HOSC was a helpful and pragmatic response.***
- 5.9.5 *As the IRP noted in its initial advice to the Secretary of State on the first referral from the Y&H Joint HOSC, the Committee has scrutinised the subject with considerable commitment and passion. **There has been a clear mismatch in expectation between the three HOSCs who initiated this review and the NHS and JCPCT in relation to the interpretation of the NHS obligation to provide HOSCs with “such information as the committee may reasonably require” under the regulations.** In addition, the NHS and JCPCT appeared to take an overly legalistic approach to the validity of the Y&H Joint HOSC rather than working with the spirit of scrutiny and their duty to involve. In the view of the Panel, **the NHS was insufficiently responsive to legitimate requests for meetings and feedback from HOSCs. It is disappointing to observe, notwithstanding the difficult circumstances, that the relationship between the NHS and the Y&H Joint HOSC has broken down to the extent that it has.***

Recommendation Fourteen

NHS England must ensure that any process leading to a final decision on these services properly involves all stakeholders throughout in the necessary work, reflecting their priorities and feedback in a comprehensive model of care to be implemented and the consequent service changes required.

These specific extracts are important, as I believe the IRP's findings should help frame NHS England's engagement with the JHOSC. However, I fear NHS England's current approach may be in danger of repeating the mistakes of the previous review.

It is unfortunate (at best) that the tone of your letter appears to suggest that NHS England will decide when it will participate in the legitimate public scrutiny of the new review of CHD services, and I am concerned that your response will do little to foster good relations between the JHOSC, NHS England and specifically those responsible for taking forward the new review.

I do not accept that attending a further meeting of the Yorkshire and Humber JHOSC – 3 months after your previous attendance in September 2013 – would not be consistent with the need for NHS England to consider how to work with 152 councils and their scrutiny functions across England. Indeed, I would be interested to know how many of those authorities have invited NHS England to attend a scrutiny meeting to discuss its plans for the new review of CHD services.

I would also reiterate that the Yorkshire and Humber JHOSC represents the 15 top-tier authorities across the region – a point that has been made on numerous occasions and highlighted by the IRP as '**... a helpful and pragmatic response.**'


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I note your comments that NHS England is planning a plenary session with council leaders, Health and Wellbeing Boards, and Healthwatch leaders. Unofficially, I understand this is set to be held in Birmingham on 8 January 2014. However, I should be grateful if you could confirm the arrangements for this session, including the aims and objectives, details of those invited to attend and how such invitations have been communicated.

While I welcome NHS England's commitment to more broadly involve and engage with local authorities as the review moves forward, I should point out the health scrutiny role is a statutory function and NHS England, along with other bodies responsible for the commissioning and/or provision of health services, has a legal duty in this regard.

Please be aware that I intend to discuss the content of this letter and NHS England's stance in relation to its legal duty with other members of the JHOSC at its meeting on 11 December 2013. The purpose being to determine any specific course of action the JHOSC may wish to pursue.

Yours sincerely

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

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

cc: All members of the Yorkshire and Humber Joint Health Overview and Scrutiny Committee (JHOSC)
Councillor Lisa Mulherin, Executive Member for Health and Wellbeing and Chair, Leeds Health and Wellbeing Board
Mark Turnbull, Legal Services, Leeds City Council