

Secretary of State  
Department of Health  
Richmond House  
79 Whitehall  
London SW1A 2NS

Date: 17<sup>th</sup> November 2009

Rt Hon Andy Burnham MP,

On behalf of the Health and Well-Being Scrutiny Committee of Sunderland City Council, I write to exercise the power of the Committee to refer an issue to the Secretary of State as outlined in regulation 4.5 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002.

The issue surrounds the Integrated Care Pilot Programme introduced by the Department of Health in 2008. The aim of the pilot schemes under this programme was to test and evaluate new ways in which PCT's could commission more integrated services. The programme invited innovative applications from prospective integrated care pilot sites and there were over 100 applications.

The proposed pilot scheme was responded to within Sunderland City Council's area by City Hospitals Sunderland NHS Foundation Trust (City Hospitals) and Church View Medical Practice (Church View). Church View is a GP Practice in Sunderland and, pursuant to the pilot scheme has been examined by the Cooperation and Competition Panel under the principles and rules of Cooperation and Competition. The proposal is one of Sixteen Integrated Care Organisations (ICO) pilot projects commissioned by the Department of Health. The Cooperation and Competition Panel has found that the proposed merger is consistent with the principles and rules and recommends that it be allowed to proceed.

In summary the council has the following concerns:

- i. In respect of the requirement to consult when an exemption is claimed by an NHS body for a pilot scheme under regulation 4(2)(b) there is currently no obligation to notify the local authority of the exercising of this exemption and this appears to be a gap in the regulations.
- ii. The OSC are concerned that there needs to be greater clarity around what constitutes a pilot scheme and the opportunity to provide comment on what a pilot scheme is about. In this instance the pilot scheme is to run for 3 years and involves the permanent features such as the transfer of staff, which effectively negates the opportunity to extend the pilot and so it becomes a fait accompli.

- iii. The OSC consider that the proposal is in effect a substantial development or variation of health services in the OSC's area which links to the issue of what is or is not defined as a substantial development or variation in health services.
- iv. There are also a number of features surrounding the pilot that the OSC has concerns over. These concerns are more fully set out below for your information.

The Cooperation and Competition Panels' findings and recommendations are based on the conclusion that the proposed merger will not impose any significant costs on patients or taxpayers by reducing the scope for patient choice or competition or undermining the primacy of GP gatekeeper function, and will allow the benefits that might be realised from an integrated care organisation to be explored. Church View and City Hospitals informed the Cooperation and Competition Panel that the merger would benefit patients by removing organisational and contractual barriers and would lead to an improvement in patient care. The clinical integration and improved communication between primary and secondary care would help to prevent avoidable admissions, facilitate discharge and help prevent the admission in their target population. City Hospitals and Church View both consider that the merger will allow them to explore new models of working together to deliver improved outcomes through active management of patients with long term conditions.

The application for the pilot scheme has come to the attention of Sunderland City Council's Health and Well-being Scrutiny Committee (the OSC) following representations from Dr Roger Ford who is the Secretary of Sunderland's Local Medical Committee.

Dr Ford outlined a number of concerns regarding, in particular, the consultation upon and the commissioning of this service and raised his concerns with the OSC. Dr Ford states that there had been no consultation with GP's, their elected representatives in the city, the public, patients of the practice or members of the local health community, and as a consequence there is no clarity around the purpose of the pilot. A copy of Dr Ford's letter dated 22 June 2009 copied to the OSC is attached.

The proposal was brought before the OSC on the 14<sup>th</sup> October 2009 via a presentation from Dr Helen Groom on behalf of both the City Hospital and Church View.

At that meeting, members of the OSC questioned the legality of the lack of consultation in respect of the pilot scheme. The initial concerns were that the OSC's knowledge of the proposals under the pilot scheme only came before the OSC once the pilot scheme had been successfully considered by the Cooperation and Competition Panel, some twelve months after the initial application.

Given the proposal is a vertical integration of a GP Practice from the community into a hospital setting, concerns were raised due to the fact that this was potentially a substantial development or variation in the provision of health services in the area of this local authority, upon which the OSC had not been consulted.

The OSC have looked at the legal basis for the decision by City Hospitals and Church View not to consult. The legal basis appears to be pursuant to the Local Authority (Overview and Scrutiny Committee Health Scrutiny Functions) Regulations Act 2002 (the Regulations) together with the definition of a pilot scheme, for primary care purposes, under the National Health Service (Primary Care) Act 1997 (the Act). The Regulations at Regulation 4(2)(b) allow for any proposal for a pilot scheme, within the meaning of Section 4 of the 1997 Act to be exempt from the requirement to consult with an Overview and Scrutiny Committee pursuant to Regulation 4(1).

On 15<sup>th</sup> October 2009 the OSC wrote directly to the Head of the Primary Care Commissioning Team for Sunderland Teaching Primary Care Trust and requested that they confirm upon what statutory basis and provisions they had relied in respect of not consulting with the OSC, (copy attached).

By letter dated 22<sup>nd</sup> October 2009, the Head of Primary Care Commissioning for Sunderland Teaching Primary Care Trust responded and confirmed that indeed, they had relied upon the pilot scheme exemption under the Regulation 4 including submitting the proposals for the pilot scheme to the integrated care pilot lead from the Department of Health who subsequently confirmed that there was no formal requirement to consult with the OSC, (copy attached).

However, the OSC have significant concerns for the following reasons.

On the 8<sup>th</sup> April 2009, a paper, substantial development and variations in NHS service, was placed before the OSC by Liz Allen, Head of Public Involvement - Patient, User, Carer and Public Involvement Team for NHS South of Tyne and Wear, the report was a joint report of the Chief Executives of Sunderland Teaching Primary Care Trust, City Hospitals Foundation Trust, the Northumberland Tyne and Wear Trust and North East Ambulance Services, (copy attached).

That Report confirmed an agreement as to what was or was not to be considered as a substantial developments or substantial variations in local NHS services in terms of consulting with the OSC.

That list included the following:

- Method of delivery – altering the way a service is delivered may be a substantial change, for example, moving a particular service into the community rather than being entirely hospital based
- Issues to be considered as controversial to local people, e.g. where historically services have been provided in a particular way or at a particular location.

The pilot scheme currently being proposed, in the view of the OSC, falls into either of those two categories. Despite the fact that it is a pilot scheme, the OSC are informed that the pilot scheme will last for over three years and includes

permanent features such as the transfer of staff. In addition, according to the local medical committee, not only have the OSC not been consulted upon the proposal, neither has any consultation taken place with the public, the patients of the practice or indeed, any members of the local health community.

The OSC accept that the current legislative provisions under the Regulations provide that, per se, that pilot schemes as defined by section 4 of the Act are exempt from the requirement for consultation.

This letter is being sent to the Secretary of State to raise the OSC's concerns regarding the lack of consultation in this matter notwithstanding that the proposal is a pilot scheme. The OSC interpret the Regulations to state that if it considers any proposal to be a proposal for the substantial development or variation of the health services in the area of the OSC, then it may report those concerns to the Secretary of State.

The Regulations do not state whether that proposal is required to be a pilot scheme proposal or any other form of proposal. It simply states that it is a proposal and therefore, the OSC ask that the Secretary of State consider the substance of proposed variation in health services through this pilot scheme and the implications under this proposal, rather than the label of a pilot scheme and revert back to the OSC.

For information the committee report and the comments of Dr Ford are enclosed. If the Secretary of State requires further information we are happy to provide supporting documentation as required, please contact Nigel Cummings Scrutiny Officer Tel; 0191 561 1006 or via email [Nigel.cummings@sunderland.gov.uk](mailto:Nigel.cummings@sunderland.gov.uk)

Yours sincerely,

Cllr Peter Walker  
Chair of the Health and Wellbeing Scrutiny Committee