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25 September 2007

Dear Sunita

Healthcare for London: A Framework for Action

Preliminary view of the London Scrutiny Officer Network to the setting up of a pan-London Joint Health Scrutiny Committee

Thank you for your e-mail of 17 September on behalf of the London Scrutiny Officer Network reflecting the points made at the Officer Network on 10 September.

I have discussed your letter with the PCT Chief Executives leading on Healthcare for London communications and consultation and have set out below their responses both to the key points which emerged in the course of the Officer Network discussion and the questions which you pose at the end the letter.

I ought to begin by recognising that this is the first time both the NHS and local authorities in London have been faced with consultation and scrutiny on such a scale. I think it is understandable that both sectors are finding this a challenge and we look forward to continuing to work with you and your colleagues to ensure an effective process is established.

Key points

1 *Whilst there is understanding of the requirements set out in the regulations to form a JHOSC, there was uncertainty about the merits of forming the JHOSC for Stage One of the consultation. It was felt that members would wish to look to the Stage Two consultation, as the specific proposals for healthcare will arise after the first stage.*

It is proposed that the stage one consultation is on models of care and delivery based on those set out in Professor Darzi's report. Taken together, they set out an integrated approach to improving health and health services for Londoners. That approach, if applied, will have far-reaching consequences for NHS services in the capital.

It is critical, therefore, that Londoners and representative bodies in London have the opportunity to comment on the models both individually and as they relate to each other. Only the first-stage consultation provides an opportunity for comment and discussion on the models as a whole since later consultations about the detail of implementation of the agreed models is likely to happen at different levels (for example, pan-London for developing trauma services and Borough/ PCT-level for community services) and at different timescales for different elements of the strategy.

2 *Practical and logistical issues – Many boroughs' Health Overview and Scrutiny Committees are in the process of or have yet to formally discuss and consider their involvement in a pan-London JHOSC.*

PCTs understand this. However, a number of Boroughs have also signalled that they are keen to be part of a JHOSC. It may be possible to reconcile PCTs' desire to embark on consultation as soon as is practicable with the different decision-making timetables of HOSCs in London by agreeing that the initial JHOSC has a formal membership from HOSCs which have been through their formal decision-making processes and informal membership (or observer status) from other HOSCs until the latter's decision-making processes formalise their representation.

The critical statutory role for the JHOSC is in considering whether the consultation has been adequate and whether the Joint Committee of PCTs' decisions in the light of the consultation are in the public interest. This role can be fulfilled with the establishment of a full JHOSC slightly later in the process. The JHOSC role of commenting on the consultation document and consultation processes can be undertaken both formally and informally as required.

3 *The process for agreeing to participate in a JHOSC varies across Boroughs, with some Boroughs requiring the decision to be taken by full Council. This is a factor for many Boroughs to consider – they are unlikely to have a Council meeting scheduled for between the 19th October (when the consultation document is signed off) and the 29th October (when the consultation is due to begin). Whilst two Councils have already acquired approval from their full Council, for others the earliest that this approval can be sought will be November.*

See response to 2 above. PCTs would want to try to accommodate a JHOSC (potentially of formal and observer members initially) having an opportunity to comment on the consultation document and consultation processes before the beginning of consultation.

4 *Members will need to be clear what impact they can make at Stage One of the consultation as the purpose and precise nature of the Stage One consultation is unclear. Would a broad discussion on models of care 'add value' or should Boroughs wait until specific proposals are available?*

The purpose and nature of the stage one consultation is to seek views on the models of care (maternity and newborn care, staying healthy, mental health, acute care, planned care, long-term conditions, end-of-life care) and the models of delivery (home, polyclinic, local hospital, elective centre, major acute hospital, specialist hospital) set out in Professor Darzi's report.

The value of a broad discussion in a stage one consultation is that it is precisely that: a broad discussion of the models and how they relate to each other (or not as the case may be). Later consultations would focus on the application of particular models in particular parts of London and will happen to different timescales. They cannot, therefore, deliver an informed discussion about the models and how they fit together.

The later consultations will build on the first-stage decisions. The practical effect of this is that where decisions are taken on models at the end of the stage one consultation there will not be an opportunity to reopen those decisions subsequently. Without wishing to pre-empt the Joint Committee of PCTs' view of the range of decisions that it may want consider at the end of the stage one consultation, it may be helpful to consider in principle what that range might be:

a) support for a particular model;
b) broad support for a particular model but refinement in the light of consultation;
c) rejection of a particular model;
d) a decision that further consultation on a particular model will be incorporated in to a later consultation which will also consider the application of the model

5 *If Councils/ OSCs are to agree to their members' participation in a JHOSC, they need to know the exact terms of reference for the consultation other than vision, principles and general models of healthcare delivery in Stage One. This detail is required in order to properly advise and inform members on the terms of reference for the JHOSC and for us to establish the timetable for the JHOSC. Some Councils' constitutions require this detail before agreeing to the participation of their members in a JHOSC.*

The consultation would be on models of care and delivery based on those set out in Professor Darzi's report (as listed in the first paragraph of the response to question 4).

6 *Acknowledging both the political landscape across London and the needs of Londoners, boroughs in the JHOSC would reflect different views and interests in light of the scale of the geographical area affected by the consultation. In order for the JHOSC to agree recommendations, scrutiny , members would need to know what the strategy means for London as a whole, national ramifications and local impact.*

What the strategy means, or could mean, for London as a whole and local impact is something that PCTs would hope could be discussed and agreed (or

contested) as part of the first-stage and later consultations. Any reading of Professor Darzi's report would recognise that implementation of the models would have a major impact on health services across London as a whole.

7 *It is unclear how the existing regional consultations where JHOSCs have been established, such as the picture of health discussions in the southeast region, relate to the HfL debate. There is an argument to suggest that the existing consultations are now obsolete.*

The letter of 9 August from the London Commissioning Group to PCT Chief Executives to which local authority chief executives were copied in set out the relationship between consultation on Healthcare for London and service engagement/consultation already underway.

It said that where service reconfiguration was already underway, local NHS bodies must ensure that their programmes do not, and are seen not, to predetermine the outcome of the stage one consultation in any way. To that end, NHS bodies involved in local consultations should satisfy themselves:

- There is a local need to carry on with the local consultation without waiting for the outcome of the pan-London consultation. Issues to consider, amongst others, in such circumstances will include impact on the quality patient care, staff, financial impact and other potential consequences of not carrying on with local consultation, balanced against any potential effect of going ahead such as risking uncertainty or confusion.
- Local consultations do not rely on the recommendations in A Framework for Action for decision-making, although reliance on a common evidence base is appropriate where relevant.
- All decisions are consistent with the open mind that consulting bodies must have, and be seen to have, on the outcome of the pan-London consultation.
- All reasonable steps are taken to ensure that consultees understand these points.

Questions requiring clarification

1. *When can we have the exact terms of reference for the Stage One consultation? OSCs will need this as soon as possible in order to help them decide on whether to participate in any joint working in Stage One.*

   The PCTs will be consulting on models of care and delivery based on those set out in Professor Darzi's report.

2. *Can the consultation timetable for Stage One be extended in order to enable those OSCs to follow their decision-making processes in order to seek approval from their OSCs and full Council?*

   A question in response: would it be possible to reconcile the timetables round OSC decision-making processes with the desirability of moving forward the discussion on Professor Darzi's report by forming a JHOSC with formal membership from those Boroughs who have already signalled they can meet

the timetable and informal membership from those whose timetables are more extended? JHOSC formal membership could then be extended as and when OSC decision-making processes are completed. The JHOSC role at the front end of consultation (commenting on the consultation document and consultation arrangements) is informal; the statutory role of JHOSC kicks in at the end of the process when commenting on the adequacy of consultation and whether the decisions of the Joint Committee of PCTs are in the public interest.

3. *Could Stage One consist of detailed briefings open to scrutiny members?*

   Stage One could include detailed briefings open to scrutiny members but it could not restrict itself to that. The value of a broad formal consultation in stage one is that it is precisely that: a broad discussion of the models and how they relate to each other (or not as they case may be). Later consultations are likely to focus on particular models and particular parts of London and will happen to different timescales. They cannot, therefore, deliver an informed discussion about the models and how they fit together. Conversely, a "stage two" consultation which tried to cover all the models and how they might be applied across London would be unmanageable.

4. *If borough OSCs decide not to take part in a JHOSC, will NHS London and the JCPCT strictly apply the regulations relating to access to information, etc to non-participating OSCs?*

   If an OSC is not participating in the JHOSC because it does not believe that the proposals being consulted on will affect its population significantly (and it is not clear what other basis an OSC could have for not participating), it is difficult to understand why it would then request participation on a bilateral basis. If it decides not to participate for the reason I have assumed, then it has no right to scrutinise.

5 *Would NHS London/ JCPCT consider working with clusters of JHOSCs formed along the previous SHA configurations e.g. JHOSC of North West London OSCs for both the Stage One and later consultations?*

   No. Healthcare for London proposes models of care that are pan-London in nature, and for some services, for example specialist services such as trauma and acute stroke care the application of the model also requires a pan-London discussion. However, there are likely to be stage two consultations which will take place at a sector or Borough/PCT level, for example on the development of polyclinics or other community services.

6 *Many Boroughs are in the process of, or are about to start, joint-authority health scrutiny and there is uncertainty how the proposed HfL consultation relates to these. It would help members in these boroughs to have information about the status of existing sub-regional health developments over and above the references in HfL.*

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- There is a local need to carry on with the local consultation without waiting for the outcome of the pan-London consultation. Issues to consider, amongst others, in such circumstances will include impact on the quality patient care, staff, financial impact and other potential consequences of not carrying on with local consultation, balanced against any potential effect of going ahead such as risking uncertainty or confusion.
- Local consultations do not rely on the recommendations in A Framework for Action for decision-making, although reliance on a common evidence base is appropriate where relevant.
- All decisions are consistent with the open mind that consulting bodies must have, and be seen to have, on the outcome of the pan-London consultation.
- All reasonable steps are taken to ensure that consultees understand these points.

I hope this is helpful. It may be helpful to meet to discuss these issues further and I will give you a call to see if we can arrange something. I am copying this letter to Councillor Mary O'Connor, Co-Chair of the Scrutiny Network, since it may be helpful to have a joint Officer/Member meeting as the way forward.

Yours sincerely,

Bill Gillespie

Interim Director of Communications
NHS London

c.c. Councillor Mary O'Connor, - Hillingdon Council