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CL/AMH

18 January 2008

Stockton Health Select Committee
Hartlepool Adult & Community Services and Health Scrutiny Forum
Durham Health Scrutiny Sub Committee
Middlesbrough Council Overview & Scrutiny
Redcar & Cleveland Borough Council Health & Social Wellbeing Overview & Scrutiny Committee
North Yorkshire County Council Scrutiny of Health Committee
Darlington Borough Council Health & Wellbeing Scrutiny Committee

Dear Chair,

**Momentum: Pathways to Healthcare
Consultation Process**

We are now more than eight months into a comprehensive programme of engagement, involvement and consultation with patients, public, staff, carers, partners and overview and scrutiny committees as part of the Momentum: Pathways to Healthcare programme.

As outlined in "Pathways to Healthcare: the road map to new hospital, primary and community services and facilities for Teesside" public funding is the preferred option for financing the build of the new hospital. As such in order to pursue this option we need to secure Outline Business Case (OBC) sooner than we had originally planned. To do this we need to have defined the location of the build, its functional content and relevant changes to services and facilities in a community setting. As these proposed changes would be considered a substantial variation of NHS services we are required to formally consult with key stakeholders, specifically local overview and scrutiny committees, under Section 244 of the NHS Act 2006 (formerly Section 7 of the Health and Social Care Act 2001). We are therefore proposing to bring phase 3: the public consultation forward to commence in June 2008. The consultation will also consider specialised neonatal services.

By bringing forward phase 3: the public consultation, we are therefore looking to fast-track phase 2: the service development and design stage to fit in with these new timescales. You will be aware of the work that has been carried out around planned care and the work we are undertaking on unplanned case. We will be looking to commence work on the remaining four project areas (women & children, diagnostics, long term conditions and step up step down) and ask for your continued support in doing this.

You will find attached two draft papers, the first outlining the consultation process and the second outlining the decision making and governance arrangements local NHS organisations are considering and will be looking to establish in the next month or so.

We are sharing this information with you at this earliest opportunity to allow relevant Local Authority overview and scrutiny committees to consider the timescale for these proposals and make appropriate arrangements to scrutinise these proposals during consultation.

If you have any questions or wish to discuss the content of this letter and associated papers further, please contact Paul Frank, Head of Patient Experience for the four PCTs on Teesside on 01642 352532 or paul.frank@middlesbroughpct.nhs.uk in the first instance.

Yours sincerely



Carole Langrick
Director of Strategic Service Development



CONSULTATION (SECTION 244) PROCESS

1. Purpose

- 1.1 This paper sets out a process by which formal consultation as required by section 244 of the NHS Act 2006 (formerly Section 7 of the Health and Social Care Act 2001) will be undertaken relating to the Momentum: Pathways to Healthcare programme.

2. Scope of the Consultation

- 2.1 Each local NHS body has a duty to consult the local overview and scrutiny committees on any proposals it may have under consideration for any substantial development of the health services in the area of the committees' local authorities or on any proposal to make any substantial variation in the provision of such services. This duty to consult is set out in section 244 of the NHS Act 2006 and is additional to the duty placed upon any such body that has responsibility for health services to consult and involve patients and the public as an ongoing process under section 242 of the NHS Act 2006 (formerly Section 11 of the Health and Social Care Act 2001).

- 2.2 For the purposes of section 244 consultation the IRP recommendations fall into two distinct groups:

Firstly, those that have resulted from a long, extensive and exhaustive process leading to recommendations from the Independent Reconfiguration Panel that have been endorsed by the Secretary of State, where the consultation is not about the content of those recommendations but rather on the way of implementing them. This section 244 consultation will be on:

- a) the location of the new hospital
- b) the functional content of the new hospital
- c) any relevant changes to services and facilities in a community setting as a result of a) and b).

Secondly, those where the service changes have wider ramifications than the traditional geographical catchment area of North Tees & Hartlepool NHS Foundation Trust. This section 244 consultation will be on:

- a) the most specialised neonatal services serving Teesside as a whole
- b) other more specialised services or other services that might be relocated into the new hospital, for example, a different care model for urology following recent joint working across North Tees & Hartlepool NHS Foundation Trust and South Tees Hospitals NHS Trust.

- 2.3 In the case of the first group of consultation issues, as the proposal that is "under consideration" applies predominantly to three NHS bodies then it seems appropriate that it is those bodies that need to agree a process of joint consultation. That is, in recognition of the cross-healthcare sector implications of the IRP recommendations, the Momentum: Pathways to Healthcare programme is jointly sponsored by the Boards of North Tees & Hartlepool NHS Foundation Trust, Hartlepool Primary Care Trust and North Tees Primary Care Trust. Therefore, it is these three bodies that will also jointly consult. In the circumstances of a joint consultation led by three NHS bodies it would seem reasonable to establish a joint committee as a formal sub-committee of each of the three Boards.

It is recognised that other NHS bodies would have a view on the proposals that are under consideration. These organisations will be consulted and will be able to express a view as per both the section 244 and section 242 consultation arrangements that are in place.

- 2.4 In the case of the second group of consultation issues, as the proposal that is "under consideration" applies to a number of NHS organisations then it is appropriate that those bodies agree a process of joint consultation. In this instance the NHS bodies concerned would be: North Tees & Hartlepool NHS Foundation Trust, North Tees Primary Care Trust, Hartlepool Primary Care Trust, South Tees Hospitals NHS Trust, Middlesbrough Primary Care Trust, Redcar & Cleveland Primary Care Trust, County Durham Primary Care Trust, Darlington Primary Care Trust, North Yorkshire Primary Care Trust. In this instance a joint committee arrangement across these organisations will be required.
- 2.5 As the intention would be to run the consultation on all these issues simultaneously and as part of the same consultation process then arrangements will need to be made to ensure that the consultation issues were clearly delineated to allow them to be considered separately but as part of an overall consultation process.

3. Timescales for Section 244 Consultation

- 3.1 The consultation will have four phases conducted over a 10 month period as follows:

Phase One: Pre-consultation (January – March 2008)
 Phase Two: Preparation for Consultation (April – May 2008)
 Phase Three: Consultation (June – August 2008)
 Phase Four: Post Consultation (September – October 2008)

The following sections of this paper will set out the main tasks to be completed in each phase.

4. Phase One: Pre-consultation (January – March 2008)

- 4.1 The main tasks are:

- a) Determine and agree arrangements with NHS bodies as to roles and responsibilities for consultation. Agree Terms of Reference for Joint Committee(s) as appropriate.
- b) Agree consultation process and content with Overview & Scrutiny Committees.
- c) Overview and Scrutiny Committees will need to decide their Joint Committee arrangements.
- d) Agree and implement a programme of pre-consultation engagement with Overview and Scrutiny Joint Committee in addition to the engagement that has already taken place.
- e) Continue engagement activity under Section 242.

5. Phase Two: Preparation for Consultation (April – May 2008)

- 5.1 The main tasks are:

- a) Prepare consultation documentation and other supporting materials.
- b) Draw up a communication plan.
- c) Draw up a detailed consultation plan identifying dates and times of formal public meetings, overview and scrutiny joint committee meetings, other meetings as appropriate where the consultation will take place.
- d) Set up a range of mechanisms for enabling views of public, partners, staff and carers to be heard and recorded in the consultation process.

- e) Establish audit tool.
- f) Engage a third party external organisation to assist in: recording views expressed at public meetings; collating all responses to consultation that will have been offered using the full range of mechanisms; analyzing the responses to consultation; presenting the responses to consultation to the NHS Joint Committee and the Joint Overview and Scrutiny Committee.
- g) Meeting of NHS Joint Committee to approve the consultation documentation, other supporting materials and the consultation plan.
- h) Agree consultation plan with Joint Overview and Scrutiny Committee.
- i) Continued engagement under section 242.

6. Phase Three: Consultation (June – August 2008) – from start June to end of August this works out at 13 weeks exactly, suggest extension to a/c for holiday period.

6.1 The main tasks are:

- a) Issue consultation documentation and other materials no later than the first day of the consultation period.
- b) Publicity and other media handling promotions and events to be undertaken as per consultation plan.
- c) Consultation meetings to be conducted as per plan in line with both section 244 and section 242.
- d) Additional, specially requested and ad hoc consultation meetings to be undertaken as required.
- e) Undertake formal section 244 consultation meetings with the Overview & Scrutiny joint committee as planned and any individual overview and scrutiny committee meetings that are requested.
- f) Acknowledge, process, collate and analyse consultation responses.
- g) Respond to requests for clarification or further information as required throughout the consultation period.

7 Phase Four: Post Consultation (September – October 2008)

7.1 The main tasks are:

- a) Meet with Overview and Scrutiny Committee(s) to present the outcome of consultation.
- b) Overview & Scrutiny Committee(s) produce a report on the consultation process and also its response to the proposals for consideration by the NHS Joint Committee(s) when making their decision.
- c) Prepare for, organise the NHS Joint Committee meeting(s) that need to consider and determine the outcome of the consultation.
- d) Produce a report containing the analysis of the consultation outcomes for the NHS Joint Committee(s) to consider.
- e) Respond to the report from the Overview & Scrutiny Committee within 28 days.
- f) Undertake the NHS Joint Committee(s).
- g) Notify interested and relevant parties of the decision made by the NHS Joint Committee(s) including the Overview and Scrutiny Committee(s) – this could be combined with action (e) above.
- h) Local resolution activities in the event of differences of view between the NHS Joint Committee(s) and the Overview & Scrutiny Committee(s).
- i) Handling and actions in the event of referral to Secretary of State or other challenge.
- j) Continued section 242 engagement activity.

4 January 2008



FORMAL (SECTION 244) CONSULTATION

1. Purpose

- 1.1 This paper sets out a proposed way forward with respect to the consultation requirements for implementing the Independent Reconfiguration Panel recommendations that have been endorsed by the Secretary of State and are covered by the Momentum: Pathways to Healthcare programme.

2. Background

- 2.1 Each local NHS body has a duty to consult the local overview and scrutiny committees on any proposals it may have under consideration for any substantial development of the health service in the area of the committees' local authorities, or on any proposal to make any substantial variation in the provision of such services. This duty to consult is set out in section 244 of the NHS Act 2006 (formerly Section 7 of the Health and Social Care Act 2001) and is additional to the duty placed upon any such body that has responsibility for health services to consult and involve patients, carers and the public as an ongoing process under section 242 of the NHS Act 2006 (formerly Section 11 of the Health and Social Care Act 2001).
- 2.2 The obligation to consult applies to the body which has a proposal "under consideration", which body that is will depend on the facts of each case. In practice, this could be:
- a) the PCT leading the commissioning process that is responsible for undertaking consultation on any variation or development to local health services that is commissions;
 - b) a joint PCT committee because the proposed service change spans more than one PCT;
 - c) a Strategic Health Authority because the proposed substantial variation to the provision of services has an impact across the Strategic Health Authority;
 - d) an NHS Trust or Foundation Trust that plans to vary or develop services locally.

3. Momentum: Pathways to Healthcare Consultation

- 3.1 A comprehensive programme of engagement, involvement and consultation with patients, public, staff, carers, partners and overview and scrutiny committees is being implemented as part of the Momentum: Pathways to Healthcare programme. In addition to being essential for the quality of the outcome of the programme, it also fulfils the requirements of section 242 of the NHS Act 2006.
- 3.2 However, consultation as per section 244 of the Act will be required as the implementation of the Independent Reconfiguration Panel's recommendations represent a substantial variation to the way that services are to be provided.
- 3.3 For the purposes of section 242 consultation the IRP recommendations fall into two distinct groups:

Firstly, those that have resulted from a long, extensive and exhaustive process leading to recommendations from the Independent Reconfiguration Panel that have been endorsed by the Secretary of State, where the consultation is not about the content of those recommendations but rather on the way of implementing them. This section 244 consultation will be on:

- a) the location of the new hospital
- b) the functional content of the new hospital
- c) any relevant changes to services and facilities in a community setting as a result of a) and b).

Secondly, those where the service changes have wider ramifications than the traditional geographical catchment area of North Tees & Hartlepool NHS Foundation Trust. This section 244 consultation will be on:

- a) The most specialised neonatal services serving Teesside as a whole
- b) Other more specialised services or other services that might be relocated into the new hospital, for example, a different care model for urology following recent joint working across North Tees & Hartlepool NHS Foundation Trust and South Tees Hospitals NHS Trust.

- 3.4 In the case of the first group of consultation issues, as the proposal that is "under consideration" applies predominantly to three NHS bodies then it seems appropriate that it is those bodies that need to agree a process of joint consultation. That is, in recognition of the cross-healthcare sector implications of the IRP recommendations, the Momentum: Pathways to Healthcare programme is jointly sponsored by the Boards of North Tees & Hartlepool NHS Foundation Trust, Hartlepool Primary Care Trust and North Tees Primary Care Trust. Therefore, it is these three bodies that will also jointly consult.
- 3.5 It is recognised that other NHS bodies may be affected or would have a view on the proposals that are under consideration. These organisations will be consulted and will be able to express a view as per both the section 244 and section 242 consultation arrangements that are in place.
- 3.6 In the circumstances of a joint consultation led by three NHS bodies it would seem reasonable to establish a joint committee as a formal sub-committee of each of the three Boards.
- 3.7 In the case of the second group of consultation issues, as the proposal that is "under consideration" applies to a number of NHS organisations then it is appropriate that those bodies agree a process of joint consultation. In this instance the NHS bodies concerned would be: North Tees & Hartlepool NHS Foundation Trust, North Tees Primary Care Trust, Hartlepool Primary Care Trust, South Tees Hospitals NHS Trust, Middlesbrough Primary Care Trust, Redcar & Cleveland Primary Care Trust, County Durham Primary Care Trust, Darlington Primary Care Trust, North Yorkshire Primary Care Trust. In this instance a joint committee arrangement across these organisations would be required.
- 3.8 As the intention would be to run the consultation on all these issues simultaneously and as part of the same consultation process then arrangements would need to be made to ensure that the consultation issues were clearly delineated to allow them to be considered separately but as part of an overall consultation process.
- 3.9 The remainder of this paper considers the purpose and operating arrangements of such a joint committee.

4. Purpose of a Joint Committee

- 4.1 The purpose of a Joint Committee is to agree a process of joint consultation, approve the consultation document and following consultation make the final decision regarding service changes on behalf of the organisations involved. This consultation process would need two joint committees. Each joint committee would be responsible for the aspects of the consultation document and decision-making relevant to the group of consultation issues that they had been set up to consider.
- 4.2 It is expected that each Joint Committee will meet on only two occasions. The first occasion to approve the consultation process and documentation; the second to make the decision on the outcome of the consultation.

5. Delegated Powers of a Joint Committee

- 5.1 A Joint Committee has delegated power from the constituent Boards to:
- Scope the content of the consultation and feedback process.
 - Approve the final consultation document and supporting materials.
 - Ensure the consultation process is conducted effectively, ensuring full public involvement.
 - Make decisions in the light of the outcomes of the consultation process.

6. Membership of Each Joint Committee

- 6.1 For the consultation issues about location of hospital, functional content and any associated community services, the Joint Committee will comprise one full nominated (voting) member from each of the three organisations, North Tees & Hartlepool NHS Foundation Trust, Hartlepool Primary Care Trust and North Tees Primary Care Trust, together with a named deputy.
- 6.2 For the consultation issues about neonatal services and specialised services/urology, the Joint Committee will comprise one full nominated (voting) member from each of the following organisations: North Tees & Hartlepool NHS Foundation Trust, North Tees Primary Care Trust, Hartlepool Primary Care Trust, South Tees Hospitals NHS Trust, Middlesbrough Primary Care Trust, Redcar & Cleveland Primary Care Trust, North Yorkshire Primary Care Trust, together with a named deputy.
- 6.3 Each Joint Committee will have a Chair and Vice Chair nominated from the Committee members by the Committee members at its first meeting.

7. Decision Making

- 7.1 Each Joint Committee will seek to reach a consensus but, recognising that will not always be possible, the voting arrangements are detailed below:
- Each of the organisations will have one vote.
 - All members will accept a simple majority decision.
 - Formal Declarations of Interest will be required to be completed by individuals rather than organisations.

- Abstentions are not expected to occur, owing to the importance of these issues on which votes will be taken and recognising members' wider responsibilities in respect of the total population affected by the changes.

8. Governance Arrangements

Governance arrangements are as follows:

- 8.1 It is expected that each Joint Committee will meet on only two occasions. The first occasion to approve the consultation process and documentation; the second to make the decision on the outcome of the consultation.
- 8.2 Additional meetings will be called if necessary to conduct the business of the Joint Committee and notified to all members at least five working days in advance.
- 8.3 All meetings of each Joint Committee will be held in public.
- 8.4 The meetings will be held in accordance with Standing Orders.
- 8.5 Meetings held in public may include a confidential agenda from which the public and press are excluded for reasons of public interest. Reasons for confidential business must be clearly stated in the records of the meeting.
- 8.6 Freedom of Information Regulations will be complied with.
- 8.7 A member desiring a matter to be included on an agenda shall make his / her request in writing to the Chair at least five days before the meeting.
- 8.8 No business shall be transacted at a meeting unless the Chair (or Vice Chair) and at least two thirds of the voting members are present. As organisations have named deputies, it is expected that it will be unusual for an organisation not to be represented at the meetings of the Joint Committee.
- 8.9 A notice in the form of an agenda will be sent to all members at least seven days before the meeting and supporting papers, wherever possible, shall accompany the agenda, but will certainly be dispatched no later than three clear days before the meeting, save in emergency. Failure to serve such a notice on more than three members will invalidate the meeting. A notice shall presume to have been served one day after posting.
- 8.10 All members of each Joint Committee must declare any interests, which will be included in the records of the meeting.
- 8.11 Minutes shall be taken at each meeting and circulated to all members with papers for the following meeting.
- 8.12 A secretary shall be appointed to take minutes and provide administrative support to the Committee. The Committee will proactively communicate its work to its member organisations and the public directly at appropriate times.
- 8.13 For any governance issues that fall outside of those listed above, the Joint Committee will follow the arrangements detailed in the Standing Orders of the Chair's organisation (.....).

Only for the purposes of interpreting these Standing Orders, the Joint Committee should be considered a Committee of.....

9. Duration of Joint Committee

9.1 Each Joint Committee will continue to hold the delegated powers as described until completion of its work outlined above.

4 January 2008

