

**DRAFT Response from the Telford and Wrekin Health and Adult Social Care Scrutiny Committee**  
**to the Department of Health's Consultation on Proposals for Local Authority Health Scrutiny**

**Q1. Do you consider that it would be helpful for regulations to place a requirement on the NHS and local authorities to publish clear timescales? Please give reasons.**

**Q2. Would you welcome indicative timescales being provided in guidance? What would be the likely benefits and disadvantages of this?**

The consultation document sets out that a HOSC or Joint HOSC may make a referral to the Secretary of State if the HOSC :

Do not feel that they have been adequately consulted by the NHS body proposing the service change  
Or

Do not believe that the changes being proposed are in the interests of the local NHS

In either of these situations a referral could be made **during the consultation period ( or in the absence of any consultation)** if the Local Authority has such serious concerns regarding the proposal or lack of consultation and sufficient evidence to support these concerns. The timescales for referral would be within the consultation period but no further time restrictions should apply to the referral in these circumstances.

Equally the HOSC or Joint HOSC may make a referral to the Secretary of State **after the consultation has ended ( if a consultation has been undertaken) and the Board(s) of the NHS body(s) has decided on the change in service.** It may be helpful under these circumstances for there to be a time scale specified within which a referral should be made on this decision. If this is implemented this should take into account any requirement that may be introduced for a formal referral to be made by Full Council.

If the Local Authority **does not** make a referral following the Trust Board(s) decision this **should not preclude a future referral** if the implementation of the change is not carried out in line with the decision taken by the Trust Board(s) as understood by the Local Authority health Scrutiny body .

**Q3. Do you consider it appropriate that financial considerations should form part of local authority referrals? Please give reasons for your view.**

The Local Authority should consider as part of the evidence received that any proposed service change or development is financially sustainable. This will become a much more complex issue to assess as the range of provider organisations expands. Evidence should be received from both the relevant NHS commissioning body(s) on their commissioning intentions and relevant provider organisation(s) on the work force, estate and clinical/technological financial implications. The fact the Local Authority believes that the service change is unsustainable or an alternative proposal provides better value may provide some of the supporting evidence for the referral.

However any requirement to consider the financial implications should not require the Local Authority to make costed alternative proposals in the event of a referral to the Secretary of State.

**Q4. Given the new systems landscape and the proposed role for the NHS Commissioning Board, do you consider it helpful that there should be a first referral stage to the NHS Commissioning Board?**

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| <b>Q5. Would there be any additional benefits and drawbacks of establishing this intermediate referral?</b>  |
| A first stage referral to the NHS Commissioning Board would introduce an unnecessary stage in the referral process. The Board may also have a conflict of interest if it has been involved in the development of the proposals. The Board could have a role in facilitating discussion to resolve any local dispute regarding proposed service changes.  |
| <b>Q6. In what other ways might the referral process be made to more accurately reflect the autonomy in the new commissioning system and emphasise the local resolution of disputes?</b>   |
| The emphasis on local autonomy should support the resolution of disputes at a local level therefore removing the need for referral to the Secretary of State. In order to ensure local negotiation is constructive all bodies involved must be clear about their relevant roles and responsibilities. All CCGs and the Local Offices of the National Commissioning Board should be encouraged to develop a good working relationship with Scrutiny at the earliest opportunity. In Telford and Wrekin the Chair of the CCG has already presented to the HOSC and Joint HOSC. |
| <b>Q7. Do you consider it would be helpful for referrals to have to be made by the full council? Please give reasons for your view.</b>  |
| Requiring referral by Full Council would add an unnecessary stage to the process.  |
| <b>Q8. Do you agree that the formation of joint overview and scrutiny arrangements should be incorporated into regulations for substantial service developments or variations where more than one local authority is consulted? If not why not?</b>  |
| Telford and Wrekin has a long established Joint HOSC with Shropshire Council which has a good working relationship with local NHS organisations.   |
| There is also Regional Health Scrutiny Chairs' Forum which is an informal network and has supported a good working relationship across the region. Telford and Wrekin have previously expressed the view that this should be formalised to become a Joint HOSC which would be the consulting body for regional and national services changes.  |
| There is a risk that the rate and scale of service change under the new commissioning arrangements and any requirement to establish additional Joint HOSCs could result in an unrealistic work load.   |
| <b>Q9. Are there additional equalities issues with these proposals that we have not identified? Will any groups be at a disadvantage?</b>  |
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| <b>Q10. For each of the proposals, can you provide any additional reasons that support the proposed approach or reasons that support the current position? Have you suggestions for an alternative approach, with reasons?</b>   |
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| <b>Q 11. What other issues relevant to the proposals we have set out should we be considering as part of this consultation? Is there anything that should be included that isn't?</b>  |
| At a regional meeting for Health Scrutiny Chairs an issue had been raised about referral of service  |

changes proposed by a Foundation Trust. This issue may have been resolved but it was commented that when the HOSC wanted to make a referral to the Secretary of State they were informed that a referral would have to be made initially to Monitor. No response was received from Monitor following this referral which delayed the referral to the Secretary of State. It would therefore be helpful to include regulations / guidance on the role of Monitor in resolving disputes on service changes provided by Foundation Trusts and time scales in which a response will be made to the Local Authority when a referral is made to Monitor .

Feedback from HOSC that have made a referral to the Secretary of State has said that it would be helpful of regulations/ guidance to include timescales for the decision made by the Secretary of State whether to refer the matter to the Independent reconfiguration panel.