LOCAL GOVERNMENT HEALTH SCRUTINY CONSULTATION

Joint SOLACE and LGA Submission

4 September

The Local Government Association (LGA) and SOLACE (The Society of Local Authority Chief Executives and Senior Managers) is pleased to submit a joint submission to the Department of Health’s consultation on Local Authority Health Scrutiny and would welcome the opportunity to meet to discuss our response in more detail.

This submission does not address every question in the consultation in detail but addresses the relevant questions for our members for which we can provide a representative response. Our response has been agreed by the LGA’s Community Wellbeing Programme Board which has responsibility for LGA activity in the area of health and social care and the SOLACE Health and Social Care Policy Network.

About LGA

The LGA is here to support, promote and improve local government. We will fight local government’s corner and support local authorities through challenging times by focusing on our top two priorities:

- representing and advocating for local government and making the case for greater devolution
- helping local authorities tackle their challenges and take advantage of new opportunities to deliver better value for money services.

About SOLACE

SOLACE (The Society of Local Authority Chief Executives and Senior Managers) is the representative body for senior strategic managers working in the public sector. We are committed to promoting public service excellence.

We provide our members with opportunities for personal and professional development and seek to influence debate around the future of public services to
ensure that policy and legislation are informed by the experience and expertise of our members.

Whilst the vast majority of SOLACE members work in local government, we also have members in senior positions in health authorities, police and fire authorities and central government.

Our Health and Social Care Policy Network is co-chaired by Tony Hunter, Chief Executive of North East Lincolnshire Council, and David White, Chief Executive of Norfolk County Council. Geoff Alltimes, Chair of the Health Transition Task Group, is Advisor to the Network. It is one of several SOLACE Networks, which exist to coordinate SOLACE’s policy and advocacy work more effectively, increase the involvement of our members, improve communication and facilitate the exchange of knowledge and ideas, experience and expertise across our membership.

QUESTIONS

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

   - We agree with the Department’s view that ‘imposing fixed timescales would be of limited value’ and that ‘it is right to allow local flexibility for the adoption of timetables that are appropriate to the nature and complexity of any change’.

   - The proposal for local authorities and the NHS to publish clear timescales would be useful, offering clarity and assisting planning on both sides.

   - There may be a need for flexibility of timescales (to be agreed by all concerned) if circumstances change during the course of a scrutiny process.

   - Consideration should be given to whether it is practical for local authorities to be expected to inform NHS bodies of a proposed publication date immediately. An alternative approach would be to expect Councils to inform the NHS of their decision within a reasonable period of time.

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

   - No. This would be too prescriptive. Local schemes differ in nature and complexity and so timescales should be locally determined but decided on expeditiously and with no undue delays.

3. Do you consider it appropriate that financial considerations should form part of local authority referrals?
• Within the current financial context, it would be appropriate for financial considerations to form part of referrals; however, greater weight should be given to considerations around quality and safety as well as wider impacts, such as on social care, which form part of the wider equation.

• If this is to be included, NHS bodies need to be forthcoming with adequate information to enable Scrutiny bodies to make financial judgements.

• As far as procedures and systems are needed, if only as a last resort, the real key lies in the relationships between Health and Wellbeing Boards, Clinical Commissioning Groups and all stakeholders. Early, trusting, discussions should be taking place across the system, encouraging real dialogue around how resources are best used in localities and how the impact of major cost regulations is best mitigated and managed. Too often in the past, health proposals have, for whatever reason, not been fully aired in advance, leaving both Executive and Scrutiny members in a difficult position without a reasonable business case for reconfiguration and, therefore, unable to articulate and represent the rationale.

• Partners need to ensure that new arrangements enable a wider understanding of, and commitment to, their respective roles in promoting effective health and wellbeing, which undoubtedly will mean a shift from acute to preventative services. Local politicians, at ward and council wide levels, have a critical part to play in championing change and generating confidence. They have skills and experience, which must be respected and utilised by health partners.

• Councils should be free to suggest alternative proposals but this should not be a requirement.

4. Given the new system landscape and the proposed role of the NHS Commissioning Board, do you consider it helpful that there should be a first referral stage to the NHS Commissioning Board?

• No. This would create a conflict of interest as the Commissioning Board may be involved in the initial development of contested proposals.

• There should be no intermediary step.

• The right to refer to the Secretary of State should remain as a last resort.

• At the most, we would favour the proposal for the Commissioning Board to play an informal role. Its involvement would be at the local authority’s discretion and would be limited to offering further information about a proposal, and only where the Board was involved in its earlier development, or offering advice and assistance in attempting to resolve a dispute.
7. Do you consider it would be helpful for referrals to have to be made by the full council?

- No. This would slow the process down and result in unacceptable delays, which would defeat the point of streamlining the process. It could also potentially politicise matters (scrutiny function is neutral in contrast to full council).

- Full council does not meet often enough. Most local authority full councils only meet every other month. One of the fundamental changes the department would like to see is the speeding up of any Health Overview and Scrutiny Committee (HOSC) referral to the Secretary of State. By requiring the referral to be approved by full council, this will undoubtedly add more delay and bureaucracy to the process, rather than reduce it.

- It should be for local authorities to determine which committee they delegate referrals to, based on the local constitution.

- There are many opportunities for conflicts of interest to occur. The new Health and Wellbeing Boards have executive/cabinet members on them and can make commissioning decisions. They are also involved in Clinical Commissioning Group commissioning and service reconfiguration decisions. If these members were involved in early discussions and decisions about a service reconfiguration that is being considered for referral to the Secretary of State, there would be a high risk that they would be unable to be completely objective in scrutinising it later.

- In two-tier areas, there is a risk that if Borough and/or District members of HOSC’s felt that their councils were not being sufficiently involved in any final referral decision, they could decide that there is little point in being involved in Health and Scrutiny at all.

8. Do you agree that the formation of joint overview and scrutiny arrangements should be incorporated into regulations for substantial service development or variations where more than one local authority is consulted?

- Joint scrutiny work can be helpful but determining which authorities should be included, and what weighting should be given to each, needs careful planning at local level.

- Our view is that this would reduce the mandate for local decision making and would not reflect the practical reality at local level.

- The position of joint HOSCs, set up across a wider area to consider certain issues affecting services crossing or beyond the boundaries of a single upper-tier authority, appears not to have been considered; full council approval could involve as many as 20 individual authorities.
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