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17th July 2018

Dr Chris Clayton
Accountable Officer
Derbyshire Clinical Commissioning Group.
1st Floor Cardinal Square
10 Nottingham Road
Derby
DE1 3QT

Dear Dr Clayton

Re: Financial Recovery Plan

I am writing to express our grave concerns with regards to the Derbyshire Clinical Commissioning Group's Financial Recovery Plan, and respectfully ask that you consider the questions we have raised in this letter and provide a formal response within 20 working days of receipt of this letter as outlined in *legalisation.

Although we have listened carefully to the reasoning behind the Financial Recovery Plan, and appreciate that this is a difficult time for Derbyshire CCG, our conversations thus far have done nothing to allay our concerns, which are essentially two-fold:

- how the plan has been developed and communicated
- how the plan is being implemented.

As you will no doubt know the Health and Social Care Act 2012, puts a legal duty on commissioners to inform, involve and consult patients and the public in the:

- planning of commissioning arrangements
- the development of proposals for change, and
- decisions about how services operate

This is where the implementation of the proposals would impact on the manner in which the services are delivered to the individuals or the range of health services available to them.

This should in turn give people the opportunity to influence the development of proposals and options.

Moreover, NHS England guidance states:

CCGs and NHS England are required to always have arrangements in place to involve the public in the planning of commissioning arrangements, regardless of the impact these plans would have on services if they were implemented.



Therefore, we would like to know why this has not taken place with regards to the Financial Recovery Plan?

It is our understanding that not only has there been no patient and public involvement in the plan, there has been no wider stakeholder involvement either.

With regards to the implementation of the plan, we have three main concerns:

1. We are really concerned that with the pace of implementation of the plan it's going to be very difficult for the public to genuinely influence decisions being made that will ultimately impact on their care and treatment. Legally, as stated in the Gunning Principles, consultation must be at a time when proposals are still at a formative stage. Can you honestly say that this is the case with regards to the cuts being implemented as part of the Financial Recovery Plan?
2. We are not confident that the CCG has done enough to determine the impact of the plans. There seems to be no wider stakeholder involvement in the plan, let alone involvement of patients and members of the public. Yet decisions have been made to decommission services.

Do you truly believe you have met your legal obligations to fully assess the impact of your plans in terms of your legal duties around the equalities act, and with regards to reducing health inequalities?

How has the impact of the proposed changes on patients, their carers and the public been assessed prior to decisions being made, and who has done this?

3. The plan has not been made public in its entirety, so no one can determine the accumulative impact of the cuts. The piecemeal system of implementing the cuts does not allow for the full impact to be assessed. Each on its own may not potentially be substantial, but as a whole it could be catastrophic. Indeed I truly believe this to be the case, and have concerns that it is unsafe.

Could it be argued that the CCG is implementing the cuts in this way in order to mask the accumulative impact of the cuts?

How have you met your legal duty as outlined above, *'to involve the public in the planning of commissioning arrangements, regardless of the impact these plans would have on services if they were implemented'*, if no one outside of the CCG has seen the full plan?

How have patients and the public been able to influence the development of proposals within the plan, and how have other stakeholders, e.g. Derbyshire County Council, Public Health, GPs, voluntary and community sector been able to influence the proposals?

Given that it is being rushed through at an alarming rate, could we please have sight of the legal advice that you have been given regarding the formation and implementation of the plan?

Could I also ask when the Health Overview and Scrutiny Committee had sight of the plan, and how you have involved them in the implementation of the plan? I understand that you consider many of the cuts to fall outside the criteria for consulting the committee as you



deem them unsubstantial. However, I believe that the accumulative impact of the cuts is substantial and it is this impact that needs to be considered by the committee.

At the recent JUCD event I attended, it became clear that current plans will only deal with half of the debt that has been identified. What plans do you have in place to ensure that there is an open dialogue with stakeholders going forward with regards to proposals for a solution to manage the remaining debt?

I appreciate there is a lot of questions to answer, but we would very much appreciate you taking the time to address each question in turn. A financial recovery plan of this magnitude cannot be legally implemented without full conscious consideration of the impact, and we need assurance that this is the case.

For ease, I have enclosed an appendix of the questions that we would like you to respond to.

I look forward to hearing from you.

Yours sincerely



Karen Ritchie
Chief Executive

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*The arrangements to be made by Relevant Bodies in Respect of Local Healthwatch Regulations 2013 Page 4-5." (28 March 2013).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184970/The_Arrangements_to_be_made_by_Relevant_Bodies_in_respect_of_Local_Healthwatch_Directions_2013.pdf



APPENDIX

Full set of questions for response:

1. Why has there been no wider stakeholder involvement in the planning of these commissioning arrangements, despite legislation and guidance from NHS England stating that this should happen?
2. With the pace of implementation of this plan, can you honestly say that members of the public and wider stakeholders are going to have a genuine opportunity to influence the decisions being made? (As outlined in the Gunning Principles, which state that consultation must be at a time when proposals are still at a formative stage).
3. Do you truly believe you have met your legal obligations to fully assess the impact of your plans in terms of your legal duties around the Equalities Act, and with regards to reducing health inequalities?
4. How has the impact of the proposed changes on patients, their carers and the public been assessed prior to decisions being made, and who has done this?
5. With regards to the failure to communicate and publish the full plan, could it be argued that the CCG is implementing the cuts in this way in order to mask the accumulative impact of the cuts? If this is not your intention, then why is there no coherent strategy?
6. How have you met your legal duty as outlined above *‘to involve the public in the planning of commissioning arrangements, regardless of the impact these plans would have on services if they were implemented’*, if no one outside of the CCG has seen the full plan?
7. How have patients and the public been able to influence the development of proposals within the plan, and how have other stakeholders, e.g. Derbyshire County Council, Public Health, GPs, voluntary and community sector been able to influence the proposals?
8. Given that it is being rushed through at an alarming rate, could we please have sight of the legal advice that you have been given regarding the formation and implementation of the plan?
9. Could I also ask when the Health Overview and Scrutiny Committee had sight of the plan, and how you have involved them in the implementation of the plan?
10. What plans do you have in place to ensure that there is an open dialogue with stakeholders going forward with regards to proposals for a solution to manage the remaining debt?

