

APPENDIX 5: INDEPENDENT RECONFIGURATION PANEL PROCESS

Initiating the process – The referral letter

Health Overview and Scrutiny Committees (HOSCs) are able to refer proposals for NHS service change to the Secretary of State for Health (SoS) if they do not feel that they are in the interest of the local NHS and local community.

A HOSC may refer the case to the Secretary of State if it is not satisfied:

- *with the content of the consultation or the time that has been allowed*
- *that the reasons given for not carrying out consultation are adequate*
- *that the proposal is in the interests of the health service in its area¹*

However, before a case will be accepted for full review, all other options for local resolution need to have been thoroughly explored².

Although there are no formal constraints on the timeframe in which the HOSC is required to refer, it is clear that any delay will impact the overall timeframe for the end-to-end process. A referral is only official once a letter is received by the SoS.

In the case of *Model for maternity services provided by Scarborough and North East Yorkshire Healthcare Trust*, a decision was made on 24 July 2007, but the HOSC did not formally refer until 20 November 2007. The report has only just been published in July 2008, meaning that the referral process took 12 months in total³.

Based on previous examples, once the formal referral letter is received by the SoS, most referral and review processes take around six months before a final decision is made by the SoS.

Secretary of State referral to the Independent Reconfiguration Panel (IRP)

The IRP was established in 2003 to provide expert advice to the SoS on proposed changes, in order for him to make an informed decision. During the NHS Next Stage Review, which was published on 30 June 2008, any referrals to SoS were automatically passed to the IRP for review. Even though this has now finished, we expect that the SoS will still wish to seek advice from the IRP in the majority of cases, due to the complexity of the issues involved.

¹ Independent Reconfiguration Panel. Formal referrals. Avail at <http://www.irpanel.org.uk/view.asp?id=55> {last retrieved 28 August 2008}

² Independent Reconfiguration Panel. Submitting evidence avail at <http://www.irpanel.org.uk/lib/doc/000referralinfo.doc> {retrieved 26 August 2008}

³ Independent Reconfiguration Panel. (2008) Advice on proposals for changes to maternity services in Scarborough and North East Yorkshire Appendix 2 avail at <http://www.irpanel.org.uk/lib/doc/000sneyhtirpfinalreport%2030.06.08.pdf> {retrieved 26 August 2008}

If the SoS decides to seek advice from the IRP, and formally does so by writing to the Chair, the IRP will instigate an initial assessment of the referral.

Initial assessment by IRP

The IRP consists of 17 clinical, managerial and lay members, including the Chair, Dr Peter Barrett. However, for the purposes of the initial assessment, a sub-group of three Panel members will determine whether the referral should proceed to full Panel review.

The primary NHS consulting body will be required to submit information at this stage. The information is required within two weeks of request and is then reviewed by the sub-group.

The IRP will provide their initial assessment and advice to the SoS within four weeks of receiving the required information. If the Panel advises that the case is not suitable for full IRP review it will provide reasons and, where possible, make recommendations as to what further action might be taken. *The SoS will then write to the HOSC and local stakeholders advising of this decision and the appropriate course of future action⁴.*

Alternatively, the Panel may advise that the case is suitable for full IRP review and its acceptance of referral of the contested proposal.

Full review

Once a full review is recommended, the SoS and IRP agree specific Terms of Reference (ToR) and a timetable for reporting. From agreement of the ToR, the IRP process then usually takes three months and includes preparation, document review, visits, interviews and group meetings, analysis and report writing. The SoS will ask the IRP to assess whether the proposed changes will ensure safe, sustainable and accessible services and are in the best interests of the population served.

Where appropriate, a sub-group of four Panel members, including a Chair, may be formed to lead the review. Supporting managers will also be appointed to the team. The programme team will also have contact with the overall Chair of the IRP.

However, as many Panel members as possible will take part in visits, meetings and interviews. *Different members may be involved on different days but all information is shared and the Panel as a whole will discuss evidence and exchange views in coming to a consensus on recommendations⁵.*

⁴ Independent Reconfiguration Panel. DH/IRP protocol for handling referrals of contested reconfiguration proposals to the Independent Reconfiguration Panel.

<http://www.irpanel.org.uk/lib/doc/1a%20handling%20protocol%2001.09.07.doc> {retrieved 26 August 2008}

^{6, 7} Independent Reconfiguration Panel. Submitting evidence. Avail at

<http://www.irpanel.org.uk/lib/doc/000referralinfo.doc> {retrieved 26 August 2008}

Throughout the process, the IRP will issue press releases to the local media, and the Chair will do interviews on the role of the IRP (not the specifics of the individual case under consideration). The public campaign is managed for the IRP by Trimedia.

Evidence considered

The IRP will examine a full range of evidence from the consultation and decision-making. It is possible to carry out more analysis subsequent to the decision but it may not be accepted for consideration by the IRP.

All forms of relevant information will be considered and the Panel will consult with interested parties from all sides of the debate⁶.

Visits

A number of 'scoping visits' will take place. The panel will tour the different sites and the areas in question. These 'familiarisation' tours will include having ad hoc talks with members of staff and the public.

Oral evidence – interviews with key stakeholders

Depending on the complexity of the case to be examined, a number of days are set aside for receiving oral evidence within the second month of the process. Several days are set aside to collect evidence from the NHS stakeholders involved in the process. Evidence will be sought from CEOs of PCTs and acute trusts, other staff (clinical and non-clinical), the Chair / members of the Joint Overview and Scrutiny Committee (JHOSC), the Chief Executive of NHS London and from local authority officers. Further days are set aside to receive evidence from the public. The additional days are used to take evidence from external groups and others, such as local MPs.

People may also give their views to the Panel in writing, by email and by telephone. Anyone can ask to see the IRP. A drop-in session may be requested so that staff can talk to panel members confidentially.

Written evidence

A range of documentation will be requested or may be submitted proactively, including the key decision papers (particularly where the final decision on the options was taken), Integrated Impact Assessment, business case, capacity plan, consultation documentation, and JHOSC response and referral.

Once the Panel has considered all the evidence and come to a consensus on a suitable way forward, formal advice will be reported to the SoS. The full Panel will agree the recommendations submitted to the SoS.

IRP advice and submission to SoS

The IRP does not make the final decision but gives advice to the SoS, who may choose to accept all, some or none of the findings of the IRP.

In the final report, the IRP can make wide-ranging recommendations to the SoS on how safe, sustainable and accessible services, in the best interests of the local population, can best be achieved.

In the past, where IRP reviews have found that the changes proposed are in the best interests of the local population, recommendations were directed at implementation processes regarding workforce and travel, for example. Other reviews that have found that the proposed changes are not the best solution for health services, have recommended major amendments or reconsideration of the whole approach.

The IRP report will be published on the IRP website approximately four weeks after it was submitted to the SoS, at the time the Ministerial decision is announced. The SoS will convey his decision in writing to the HOSC, taking account of the IRP's recommendations. The SoS's letter is copied to all relevant local NHS organisations and all Members of Parliament with constituents affected by his decision.

Implementation in light of referral

Until an actual referral is made, work can continue as planned. After the referral, no irreversible step to implement any decisions under challenge should be taken. The Programme Team can continue planning and implementing decisions not being challenged.

Work should also continue during the review process. The IRP has advised in previous instances that an IRP referral does not require that all aspects of local plans should be put on hold. The NHS should continue to work on the non-contentious aspects of its strategic plans - that are outside the referral - and recognising that it must not pre-empt the ToR for the IRP's review which have yet to be agreed.

The Programme Team may also continue to work on implementation planning of the main agreed JCPCT recommendations. This should include planning any enabling works at either hospital. Work may also continue on the detail of the proposed model of care. This would include, for example, an audit of existing activity and refining models of care for different specialities.

Once a referral has been made, the Programme Team can discuss implementation plans that should proceed with the JHOSC or local OSC.