

AUDIT AND GOVERNANCE COMMITTEE AGENDA



Friday 5 February 2015

2.30 pm

In the Council Chamber, Civic Centre, Hartlepool

MEMBERS: AUDIT AND GOVERNANCE COMMITTEE

Councillors Ainslie, S Akers-Belcher, Belcher, Cook, Lawton and Martin-Wells.

Standards Co-opted Members; Mr Norman Rollo and Ms Clare Wilson.

Parish Council Representatives: Parish Councillor J Cambridge (Headland) and Parish Councillor B Walker (Greatham)

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
No items.
4. **AUDIT ITEMS**
No items.
5. **STANDARDS ITEMS**
No items.



5 FEBRUARY MEETING ADJOURNED AND RECONVENED ON 26 FEBRUARY

6. STATUTORY SCRUTINY ITEMS

6.1 Assisted Reproduction Unit - Service Provision:

- (a) Covering Report - Scrutiny Manager; and
- (b) Presentation and Report - North Tees and Hartlepool NHS Foundation Trust.

7. MINUTES FROM THE RECENT MEETING OF THE HEALTH AND WELLBEING BOARD

No items

8. MINUTES FROM THE RECENT MEETING OF THE FINANCE AND POLICY COMMITTEE RELATING TO PUBLIC HEALTH

No items

9. MINUTES FROM RECENT MEETING OF TEES VALLEY HEALTH SCRUTINY JOINT COMMITTEE

No items

10. MINUTES FROM RECENT MEETING OF SAFER HARTLEPOOL PARTNERSHIP

No items

11. REGIONAL HEALTH SCRUTINY UPDATE

No items

12. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

ITEMS FOR INFORMATION

Date of future meeting – Thursday 11 February 2016 at 10.00am in the Civic Centre, Hartlepool.



AUDIT AND GOVERNANCE COMMITTEE

5 February 2016



Report of: Scrutiny Manager

Subject: ASSISTED REPRODUCTION UNIT - SERVICE PROVISION – COVERING REPORT

1. PURPOSE OF REPORT

- 1.1 To introduce representatives from the North Tees and Hartlepool NHS Foundation Trust (the Trust) who will be in attendance at today's meeting to present details of the decision taken to change the way in which fertility services are provided by the Trust.

2. BACKGROUND INFORMATION

- 2.1 Following a review of the service provided at the University Hospital of Hartlepool's Assisted Reproduction Unit, the Trust announced that the way in which it provides fertility services is to change. As part of the announcement the Trust indicated that it will no longer be providing licensed fertility treatments; however, it will continue to provide some general infertility treatments and ensure that patients continue to receive treatment. It will also be looking at alternative service models for the provision of services in the future.

- 2.2 The resulting decision to close the University Hospital of Hartlepool's Assisted Reproduction Unit was identified by the Audit and Governance Committee as a matter of significant concern to the residents of Hartlepool. Under its powers within the Health and Social Care Act 2012, the Committee has called the Trust to attend today's meeting to discuss the decision and provide information in relation to:

- Clarity as to how services are currently provided / contracted;
- Details of the decision (including the process undertaken, the basis of the decision and evidence to support it);
- Details of the recruitment exercise undertaken;
- Implications of the decision (numbers effected);

- Service sustainability for the future and impact on the provision of other linked services;
- Consultations and communication undertaken with patients / parents (including those with stored embryos);
- What / were alternatives considered for the provision of the service that could have seen its continuation from the University Hospital of Hartlepool's Assisted Reproduction Unit; and
- How the proposals fit in to the Better Health Programme (given the elements of the programme that relate to maternity and neo-natal services).

2.3 At the time of production of this report, the following representatives will be present from the Trust:

- Julie Gillon, Chief Operating Officer/Deputy Chief Executive
- Steve Wild, Consultant in Obstetrics and Gynaecology
- Jean MacLeod, Associate Medical Director
- Michelle Taylor, Deputy Director of Human Resources
- Jane Barker, General Manager for Obstetrics and Gynaecology

2.4 In addition to representatives from the Trust, the following representatives will also be present:

- Iain Wright (MP)
- Representative from the Royal College of Nursing
- Representative from UNISON

2.5 The Trust has indicated that the decision in relation to the University Hospital of Hartlepool's Assisted Reproduction Unit was taken on the basis that they were unable to recruit sufficient embryologists to continue to provide the current service safely. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 stipulates that the relevant NHS body, or health service commissioner, is not required to consult on a proposal for the substantial development /variation of a health service when the decision has been taken because of a risk to the safety or welfare of patients or staff. On this basis, the Trust was / is not required to consult on its decision. It must, however, notify the authority of the decision taken and the reason why no consultation has taken place.

2.6 From a procedural perspective, the enactment of the decision on the grounds of clinical safety reduces the options available to Overview and Scrutiny and removes the Committees ability to recommend to Full Council that a formal referral be made to the Secretary of State. Based on the evidence provided by the Trust at item 6.1(b) of the agenda, the Committee is asked to consider how it wishes to respond to the decision and outline any suggestions it may have for the way forward, in accordance with its powers under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

3. RECOMMENDATIONS

3.1 That the Committee:

- Consider / receive the report and presentation from the North Tees and Hartlepool Foundation Trust (at item 6.1(b) of the agenda); and
- Consider how it wishes to respond to the decision and outline any suggestions it may have for the way forward.

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AUDIT AND GOVERNANCE COMMITTEE

5 February 2016

Report of: North Tees and Hartlepool NHS Foundation Trust

Subject: ASSISTED REPRODUCTION UNIT - SERVICE PROVISION

1. INTRODUCTION

- 1.1 The Assisted Reproduction Unit (ARU) at the University Hospital of Hartlepool undertakes non licensed and licensed fertility treatments. Licensed treatments are those regulated by the Human Fertilisation and Embryology Authority (HFEA) and require the specialised skills of an Embryologist.
- 1.2 The Unit is a small in comparison to other units in the region and provides services to both NHS and private patients.

2. BACKGROUND INFORMATION

- 2.1 The ARU undertakes an average of 250 cycles of licensed fertility treatments per year. Due to the nature of the licensed treatments some patients have more than one cycle of treatment.
- 2.2 The Hartlepool and Stockton on Tees Clinical Commissioning Group (CCG) commission both unlicensed and licensed fertility treatments from the Trust as part of an annual contract.
- 2.3 Due to the small number of staff working in the unit and specifically the number of embryologists, the unit has been the subject of continuous review to ensure a clinically safe, sustainable and financially viable service can be provided.
- 2.4 The unit is subject to HFEA regulation and to a continuous monitoring of licensed fertility practice involving a four year inspection cycle and oversight of any service changes or challenges which could impact upon the Code of Practice.
- 2.5 The CCG has been fully informed in the dialogue surrounding the risks to clinical sustainability and the options and decision making around short term risk mitigation and the future management of this service, including the reasons why the service needs to be varied.

- 2.6 In addition, in the autumn of 2015, both the key stakeholder Local Authorities of Hartlepool and Stockton, chairs of the scrutiny functions, were informed of the clinical risk posed with regard to specialist staffing challenges.
- 2.7 There are nine budgeted members of staff working in the ARU; a combination of skill mix to enable the delivery of appropriate treatments and care to patients. This includes the budget for 2 whole time equivalent embryologists; it also includes registered nurses, health care assistants and clerical staff. In addition there are a small number of sessions per week provided by Consultant medical staff.
- 2.8 To put the size and operation of the unit into context, in the Year 13/14 (latest published data) the following patients were treated locally:

Unit	Patients treated	IVF Cycles	Total Cycles
South Tees FT	297	148	347
N Tees & Hartlepool FT	175	136	231
Gateshead FT	468	446	665
Newcastle FT	625	489	788

Reference: www.hfea.gov.uk/clinicstaff

3. CONTEXT

- 3.1 The proposal is that the Trust will not provide licensed fertility treatments after 31st March 2016, however non licensed fertility treatments will continue to be provided. The Trust is working with other service providers to look at the way in which services may be provided in the future and to ensure patients continue to receive appropriate treatment.
- 3.2 The decision has been made reluctantly following clinical safety concerns due to pressures in the service with a consistent lack of embryologist cover. The License to carry out certain fertility treatment is reliant on the expertise of an embryologist and this is closely regulated by the Human Fertilisation and Embryology Authority and therefore without the Embryologist the treatments cannot be carried out.
- 3.3 The Trust has continued to put patients first during the course of clinical challenges resulting in the potential deferments to treatment, by ensuring the provision of appropriate treatment pathways, through the employment of locum and agency embryologists. However, this is neither a clinically nor a financially sustainable solution.

4. CHALLENGES

- 4.1 In July 2014 due to sickness absence of embryologists, the Trust discussed with the CCG that it was unable to undertake the licensed treatments, the

service was then suspended. Patients were transferred to South Tees NHS Foundation Trust to continue their treatment.

- 4.2 A weekly review of the service provision, safety of patient pathways and the agreement with South Tees FT was undertaken with the intention to re-establish the service as soon as it was safe to do so.
- 4.3 Further reviews of the service were undertaken throughout 2014 and early 2015 and during this time an approach was made to other local providers to explore the possibility of a collaborative partnership providing a fertility service, however, these proposals were not taken up by other providers. Mitigation to offset some of the risk with a local agreement with South Tees NHS Foundation Trust to accept patients at crucial stages of treatment in the event of short term absence by embryologist was put in place.
- 4.4 It can never be taken for granted that there is an infinite supply of appropriately trained, registered and experienced embryologists and sporadic locum cover is not a sustainable option hence in addition to historical advertisements, in 2015 the Trust advertised an embryologist vacancy on three separate occasions within the space of six months.
- 4.5 A chronology of recruitment events with regard to an established embryologist rota including retirement, flexible retirement, recruitment plans, resignation and an inability to recruit can be demonstrated since November 2014
- 4.6 The clinical risk surrounding a small almost single handed specialist service can never be underestimated and in light of the difficulties in recruiting an embryologist this service remained clinically fragile.
- 4.7 Medical and managerial leads from the service have been involved in developing an option appraisal notwithstanding the clinical risks.
- 4.8 In November 2015 it was agreed at the Executive Team meeting that a recommendation regarding the future of the service be provided to the Board of Directors at its meeting on 26th November 2015.
- 4.9 The Board of Directors agreed the discontinuation of the ARU and that a Tees wide service with local provision be explored for the population.
- 4.10 In December 2015 the Executive Team agreed that consultation with staff on the future of the service should commence in January 2016 when the ARU reopened after a 3 week Christmas break.

5. IMPACT

- 5.1 There are, on average 250, licensed fertility cycles undertaken per year, however due to the nature of the treatment some patients have more than one cycle of treatment.

6. ENGAGEMENT

- 6.1 The Trust recognises that this is an extremely difficult and disappointing time for patients and is therefore working with the Human Fertilisation and Embryology Authority and other local provider Trusts to look at the way the service could be provided in the future and to ensure patients continue to receive appropriate treatment.
- 6.2 For those patients due to start licensed treatment before the end of March the ARU staff are agreeing dates for treatment with patients. There are other patients at different stages of their treatment pathway; these patients are also being contacted by the ARU team to address their specific needs and concerns and to give appropriate advice and signposting to enable access relevant support.
- 6.3 The Trust is also working closely with the Human Fertilisation and Embryology Authority to agree plans to consult with patients who have material stored within the Unit.

7. PROPOSAL

- 7.1 The Trust is working with other licensed providers to explore the possibility of a licensed service being delivered in Hartlepool in the future, however discussions are in the early stages. In the meantime non licensed fertility treatments will continue to be undertaken at Hartlepool.

8. CONCLUSION

- 8.1 The current position is underpinned by a clear clinical rationale for change. The viability of small units that provide specialist treatment is to be considered in the context of service continuation. There are many different ways to achieve positive change for patients that the CCG will take into account, with regard to the current position and the proposed change to service provision.
- 8.2 The proposed service delivery model for the future must continue to consider the desired improvement in clinical viability and outcomes and also include alignment with the plans and priorities of the CCG Clear and Credible Plan and commissioning intentions, consideration of specialist provision versus local access, any potential financial implications and deliverability.
- 8.3 It is essential to ensure the future service provision is sound and to ensure time is spent progressing on only viable and supported options.

AUDIT AND GOVERNANCE COMMITTEE

26 February 2016
(Reconvened from 5 February 2016)



Report of: Scrutiny Manager

Subject: SUPPLEMENTARY INFORMATION FOR RE-CONVENED MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE - ASSISTED REPRODUCTION UNIT

1. PURPOSE OF REPORT

- 1.1 Following the adjournment of the meeting of the Audit and Governance Committee held on the 5 February 2016, the decision was taken to reconvene the meeting on the 26 February 2016.
- 1.2 As referred to at the meeting, and received in the intervening period, the attached supplementary information is provided for the Committee's attention / information.

2. BACKGROUND INFORMATION

- 2.1 Supplementary information compiled for the attention of the Committee is as follows:
 - a) Royal College of Nursing and UNISON report;
 - b) Foundation Trust (FT) responses to public questions;
 - c) Letter from FT to Hartlepool Borough Council (HBC) – 16 February 2016;
 - d) Letter from HBC to FT – 17 February 2016;
 - e) Letter from FT to HBC – 19 February 2016;
 - f) Letter from HBC to FT – 22 February 2016; and
 - g) Details of Embryologist pay grades and associated salaries.

3. RECOMMENDATIONS

- 3.1 That the Committee receive the additional information and seek clarification where required.

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RCN AND UNISON SUBMISSION (FEBRUARY 2016)

PROPOSED DISCONTINUATION OF THE ASSISTED REPRODUCTIVE UNIT AT THE UNIVERSITY HOSPITAL OF HARTLEPOOL

1.0 Background

Consultation was launched with the recognised Trade Unions and staff within the ARU on 11th January 2016.

The organisational change document presented as part of the consultative process refers to the review as beginning in February 2015, when the Trust Executive Team agreed that the long term viability of the ARU needed to be considered.

The document does not identify any reason for the Executive Team coming to that conclusion.

The Executive Team were presented with 4 options to consider:

- Status Quo
- Recruitment of Embryologist and extra Nurses
- Expansion
- Discontinuation

The Executive Team chose option 2 and it was immediately agreed to appoint 1 full time Embryologist to work alongside the existing part time Embryologist plus an additional Band 5 Nurse.

Recruitment was successful and in August 2015 an Embryologist was appointed to the Team. However that person left in December 2015. The Trust states that the stability to the Unit that this appointment brought was lost at that point.

The Trust also states that throughout 2014 and 2015 they had made additional attempts to recruit and retain staff in the Embryologist post, including exploring the option of Locum Staff, but were unsuccessful. In their words this puts the ARU in a vulnerable position which is not sustainable.

The option of Locum Staff to help support the service was deemed not viable as the cost would average £750 per day and doing so would not resolve the longer term concern of being able to recruit into the service.

On 22nd December 2015 the Executive Team agreed that the longer term viability of the ARU needed to be considered following a presentation and subsequently decided to proceed with option 4 – discontinuation.

A minimum 30 day consultation with Staff and Trade Unions was launched on 11th January following which the ARU will close on 31st March 2016 and staff will be made redundant simultaneously.

2.0 History

The Unit was the first Unit to be granted a licence to operate in the NE and the first assisted reproduction birth took place here.

In 2008 the Trust wanted to modernise the Unit and invested £750,000 to build a new purpose built Unit, which was officially opened in December 2008.

The Trust appointed a Senior Embryologist, increased Nursing Staff from 2 to 5 and recruited a Consultant to run the Unit and act as Licensee for the purposes of meeting the requirements of the Regulator (The Human Fertilisation & Embryology Authority).

The Unit was state of the art and Patient centred and remains embedded in the Community, for example it has done a lot of charity campaigning in the community bringing much needed and expensive equipment into the unit, the last effort being in November 2015 when the Trust initiated a big push for £17,000 to raise funds for time lapse cameras to monitor embryo development.

The unit has a successful record of maintaining targets and increasing IVF cycles, despite staff shortages, and continues to deliver cutting edge services by making use of the most up to date IVF techniques. The Unit also pioneered Natural Cycle IVF treatment, first introduced in 2012 and now used by the London Women's Clinic in Harley Street and Darlington.

The unit importantly stores sperm for Oncology Patients and raises further income through private practice.

The Unit organises an annual international Conference on IVF which is recognised by the HFEA as part of their national training programme.

3.0 HFEA License

Fertility treatment has 2 pathways: licensed and unlicensed. Licensed work involves dealing with eggs and sperm. It is IVF based work and requires the Unit to be licensed by the HFEA.

The Unit is inspected every 3 years, with 1 unannounced inspection, and the License is issued every 4 years. Unlicensed work is largely mediation based.

The Unit has passed every single inspection since 2008, including the last unannounced inspection in 2015.

The last inspection, which is on public record, importantly also commented that although staffing levels need to be improved the HFEA were happy with the way in which cycles have been adjusted to accommodate staff shortages.

As the service is licensed there has to be a process of consultation with the HFEA over any proposed closure. No evidence has been presented to confirm that this has happened nor explanation given as to how the Trust intends to comply with regulatory requirements.

Under HFEA Regulations each Patient for whom Eggs or Sperm are stored must be written to on an individual basis, for example, and informed of the proposed closure and the intended transfer of samples and Patient notes. They also need to give consent to where materials are transferred to and in the case of the ARU this means all Patients from 2008 onwards.

It is our understanding that non compliance with the Regulations is an offence under law and would attract penalties.

Costs relating to informing thousands of Patients, relocating records and samples and the logistics of closure have not been provided.

4.0 Recruitment of Embryologist and future viability of the Unit

As stated in 3.0 (above) the last HFEA inspection commented that staffing levels needed to be improved, but did not indicate that the Unit was in any way in a vulnerable position as stated by the Trust.

The HFEA's comments that the Unit was continuing to perform well while understaffed, together with the Trust Executive's 2015 decision to invest in Option 2, led all staff, including the License holder, to conclude that the Executive at their meeting on 22nd December would agree to re-advertise for an Embryologist.

To further compound this we understand that a report was requested into the future operation of the Unit by Senior Management ahead of the Trust Executive meeting and that the report clearly indicates that the Unit remains fit for purpose, is meeting targets and included in the report were proposals for the recruitment of a full time embryologist.

It is unclear as to whether or not the aforementioned Report was submitted to the Executive on 22nd December and we would request confirmation of this and for the Health Scrutiny Committee to request disclosure of this key document if they have the required powers to do so.

Our understanding of the history of the problem of recruitment is different to a degree from the explanation provided by the Trust (see section 1.0)

Prior to the February 2015 decision to support option 2 it is our understanding that there had been an earlier attempt to close the Unit.

In 2014 one of the 2 Embryologists on the Unit ended up on sick leave as a result of a bereavement and the other embryologist was struggling with back pain. A locum was therefore requested by the Unit Management to assist with cover. The response in July 2014 was an approach by the Trust to the CCG over the closure of the Unit due to a lack of Embryologists.

Whether the closure would have been temporary or permanent is something we probably will never find out, but with the return of the Embryologist from sick leave and lobbying from Unit professionals the Executive revised their position.

The Executive decision to go with option 2 in February 2015 led initially to an advert for 2 part time Embryologists for which there were 4 applicants, but non suitable, then a second advert in May 2015 for a full time position combining the 2 part time wages. There were 8 applicants and 1 appointment in August..

The existing Embryologist who had returned to work from sick leave in February/March applied to go part time as she was close to retirement. This was approved and the remaining hours of her post was advertised. There were no suitable applicants forthcoming. The Trust were asked to re-advertise the post, but failed to do so.

In December 2015 the full time Embryologist left for family reasons. Again the Trust were asked to re-advertise and a report for Management was prepared as outlined in paragraph 3 of this section. The report provides evidence that the Unit had met all targets and exceeded cycle targets and would continue to do so if a replacement Embryologist could be appointed. Unfortunately this was overtaken by the decision to close the Unit.

The report author was not asked to attend the Executive meeting on 22nd December 2015.

The Unit still has 1 part time Embryologist and as a temporary measure cycles can be adjusted to keep account of staffing levels. Staff contest that if the Trust advertised for a Band 8 Embryologist and not a Band 7 then there would be plenty of applicants and further contest that due to changes in training provision several Embryologists will come out of training in 2017.

In terms of Locum provision to take pressure off the Unit we are aware that a Consultant Embryologist has offered to work on a fixed term ten month contractual basis for a substantially reduced daily rate in order to assist, however the current use of Locums from Newcastle has help keep the unit stable.

5.0 Patient Care

At a meeting with full time Trade Union officials on 25th January 2016 staff raised a number of concerns over the treatment of Patients.

First of all it was not helpful that despite a clear embargo being placed on any press statements news of the closure hit the media on the same day that staff were informed. This led to a flood of Patient queries.

Staff have not been given sufficient information to feedback to Patients.

Some Patients have not been passported to the Consultants.

Workloads have increased due to high volume of phone calls into the Unit from Patients seeking advice and information.

There is genuine confusion amongst Patients, particularly whose ongoing treatment will go beyond the closure date. For example Counselling can take longer than normal, sometimes years.

Staff are concerned about Patients who are still being treated in March and would like to know what the exit plan for Patients is under the HFEA Regulations.

Staff are also unclear as whether or not it is the Trusts intention to maintain the unlicensed services, such as Outpatients, or whether or not the Trust will continue to run the Laboratory.

6.0 Conclusions

The Trust has determined that the Unit is currently unsafe and therefore it is not necessary for them to consult where a decision has to be made on health and safety grounds. We would agree with them if that were the case, but we believe that the Unit remains viable and compliant with HFEA Regulations and refer back to the Regulators last inspection in which they noted that the adjustments to the service which took account of current staffing levels were appropriate and left the Unit fit for purpose.

We believe the Trust has a duty to consult with the HFEA and CCG and to disclose what impact that would have on staff. It is our opinion that without doubt any exit strategy for the Patients and the service would go well beyond 31st March 2016 therefore in order to conclude current consultations over redundancies in a meaningful way the Trust needs to extend the current consultation period and factor in staffing requirements resulting from discussions with the HFEA.

We believe that the Unit remains viable and is capable of operating within targets. We believe that further consideration should be given to proposals provided to Management in advance of the meeting of 22nd December in a report which outlines ARU activities and embryology requirements for 2015/16 and would ask the Committee to seek disclosure of said report.

As the Unit does have a part time Embryologist as part of the current staff contingent we believe that further consideration should be given to the Locum offer outlined in paragraph 14 of section 4.0 in order to assist in the interim period and that the Trust re-advertises for a Band 8 full time Embryologist with immediate effect.

Although we remain unconvinced by the argument for closure It is our expectation that the Trust makes it clear to all staff that in the event of any redundancies occurring that proper notice periods will be adhered to following the end of formal consultation with the recognised Trade Unions.

We respectfully request evidence that discussions have been held with the Commissioners and that for their part this is not an exercise driven by CCG requirements over the future provision of IVF services.

Additional questions and information – re ARU Feb 2016

Q. Please could you the trust elaborate on how the impact study was conducted in regards to the impact the closure will have on the patients (Service users I think you call them) and produce this impact study to the group?

The change to service has been made reluctantly following clinical safety concerns due to pressures in the service with a consistent lack of embryology cover. A Quality Impact Assessment has been undertaken and submitted for approval by the Medical Director /Director of Nursing - this cannot be shared with the group prior to approval.

Q. Please could the trust elaborate on the EXACT number of patients which will be effected by this units closure?

All patients requiring licensed fertility treatments, that is those treatments regulated by the Human Fertilisation and Embryology Authority (HFEA) and require the specialised skills of an embryologist. There are on average 250 cycles of licensed fertility treatment undertaken a year, however due to the nature of the treatment some patients have more than one cycle of treatment. One hundred and eighty four patients were treated in the Unit between October 2014 and September 2015

Q. Please could the trust elaborate and be precise on the EXACT number of services and procedures which will be taken away from the people of Hartlepool, North Tees and the surrounding areas?

There are six licensed treatments that the trust will not be providing:

- Intra uterine insemination
- Sperm freezing
- Embryo freezing
- IVF
- ICSI - Intra-cytoplasmic sperm injection
- Donor sperm

Q. Please could the trust explain in its own words why it is having problems securing an embryologist when other areas surrounding Hartlepool seem to be able to recruit and retain these positions?

The Assisted Reproduction Unit is a small unit compared to other Units in the region. The Trust advertised the embryologist post three times in a six month period in 2015. It can never be taken for granted that there is an infinite supply of appropriately trained, registered and experienced embryologists and is known that other larger Units in the region have had difficulty recruiting to embryologist posts.

Q. Please could the trust answer the allegations that it did not fully complete a full consultation with qualified medical staff based at the unit and also answer the allegation that even the medical director of the unit was not consulted until after the decision was made to close the unit?

The clinical lead and the clinical director have been involved throughout assessing the clinical risk, developing options to manage clinical sustainability and to look at viable options to manage longer term solutions. The current position is underpinned by clear clinical rationale for change.

All staff in the ARU including medical staff were informed by their clinical director on 11 January 2016 through the launch of a formal consultation.

Q. Please could the trust answer the allegation that they did not try hard enough to recruit an embryologist and that they placed objects in the way so that one would not be found, it is claimed that:

- **The advert was not given enough exposure by only restricting it to one recruitment outlet.**

We have advertised the vacancy for an embryologist three times within a six month period.

All Trust vacancies are advertised on NHS Jobs as per Trust policy. NHS jobs website is a dedicated online recruitment service for the NHS. All jobs advertised can be accessed from overseas.

- **It was poor planning and decision making to continue to use this outlet when the first attempt to recruit was not successful and that it would have been more beneficial to widen the scope of agencies employed to recruit an embryologist.**

Applications were received on advertising the post however candidates can only be shortlisted when they meet the criteria of a vacancy. The difficulties in recruiting have also involved the qualifications, knowledge and experience of the applicants.

On two occasions the Trust were able to recruit however we did not retain these staff.

- **It is well known that the use of fixed term and temporary contracts puts off potential employees and these tactics are commonly used by the trust to make sure the posts they wish to stay vacant don't get any takers and thus allowing services to be removed or reduced.**

All the posts were permanent, not fixed term or temporary.

The recruitment department work in line with Trust policies and procedures when advertising posts for the Trust.

Q. (really a statement which needs to be answered) The trust shows poor planning and incompetence in its attempts to fill posts time and time again, it has been put to me and now and I put it to you that if this was a business and in the private sector this would never happened more than once simply because they learn by their mistakes and hurdles and if it happened time after time heads would role. It seems to me that the trust makes the same mistakes time after time after time and no-one is taken to account for these mistakes. It is obvious to us all here at TOHC that the recruitment staff / department at North Tees and Hartlepool NHS Trust have failed to fulfil the most simplest of tasks and that is filling positions. It is simple if you wish to attract people to work for you it is important to make yourself look attractive. These are the basic rules of recruitment, if you wish to make yourself more attractive why did you not increase the pay band or benefits for an embryologist. With an annual wage bill of nearly £1.35m (without bonuses or extras) between 14 executives of the trust I am sure that they could justify a higher salary for these posts which they "Can't fill" and this may have beard fruits who knows.

The embryologist post was evaluated in line with Agenda for Change job evaluation and matched at a band 7. NHS jobs detail current posts at a band 7 and no higher which does not suggest we are out-with competitors for the role required.

Q. Why is it whenever any service is removed from Hartlepool hospital the reason is always down to “We can’t recruit”, if you can’t recruit with the staff and procedures you have in place now shouldn’t you be rethinking your approach and systems for recruiting. It is worrying to the members of the public because if you can’t get something as basic as recruitment right what other problems are there which the management are getting wrong and not telling the public until it is too late?

The posts were recruited to in line with Trust policies and procedures. On two occasions the Trust were able to recruit however we did not retain these staff.

Q. Please could the trust give me an exact figure showing how many people will be made redundant due to this closure; if you can give an exact figure please could this number be guaranteed as in many cases which has happened before the true number was much higher than the original quoted

A staff consultation began on 11 January 2016 and part of that procedure is to seek redeployment opportunities for the staff involved thereby continuing their employment. All staff have been given the opportunity for individual discussions and negotiation as part of the consultation process.

Q. Why could there have not been a reduction in services offered until an embryologist could be found, many ARU’s around the UK offer trimmed down services such as only offering 1 or 2 cycles of IVF to patients with an option to undergo a final cycle after a set period of time if the first round is unsuccessful. Surely this could have been done rather than taking the rash decision to close the unit fully?

The Trust has continued to put patients first during the course of the clinical challenges by ensuring the provision of appropriate treatment pathways and through the employment of locum embryologists. However the clinical risk surrounding a small almost single handed specialist service cannot be underestimated and the sporadic locum cover is neither clinically or financially viable.

Q. Please could the trust answer to why they tried to hide the true extent of service removal from the public, in the official press release it only stated that the IVF services would close and it did not explain the true extent of how deep this cut actually goes. There are many residents of this town who believe that only a small service is getting cut whereas this really is not the case. What will you do to rectify this poor error of judgment and afford the people of Hartlepool pure transparency by not hiding things from them and explaining things to them in a manner in which they will understand?

The Trust have been very clear in all press releases that it would no longer be able to provide **licensed fertility treatments after 31st March 2016**, however non licensed treatments will continue to be provided.

Our Ref: SRAK/NTH001-1089255
16 February 2016

Members of the Audit and Governance Committee

Hartlepool Borough Council
Level 4 Civic Centre
Victoria Road
Hartlepool TS24 8AY

For the attention of:

Christopher Akers Belcher (leader of the Council)
Gill Alexander (Chief Executive)
Ray Martin Wells (Chair of the Audit & Governance Committee)
Peter Devlin (solicitor and governance officer)

Dear Sirs

Assisted Reproductive Unit, University Hospital of Hartlepool

We act for the North Tees and Hartlepool NHS Foundation Trust (the "Trust") in connection with the above matter.

We write in accordance with the Local Authority Health Scrutiny Guidance published by the Department of Health¹ ("DH Guidance"), and further to the meeting of the Audit & Governance Committee of Hartlepool Borough Council on 5 February 2016, where proposals about the future of the Assisted Reproductive Unit at the University Hospital of Hartlepool ("ARU") were discussed.

As you will be aware, where there are concerns about proposals for variations in health services, the DH Guidance requires local authorities and the NHS to work together to attempt to resolve these locally before any further steps are taken. This is also set out in regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218) ("Regulations")², which require that before any references to the Secretary of State are made by a local authority, the local authority and the NHS take such steps as are reasonably practicable to try to reach agreement.

This letter seeks to set out the Trust's position, in order that local resolution of this issue can be appropriately progressed. However, if agreement cannot be reached locally, the next step is not to refer the matter to the Secretary of State, but to seek help from the Independent Reconfiguration Panel ("IRP") and/or the Centre for Public Scrutiny, as set out in the DH guidance. Therefore, we would urge you to reconsider your decision to refer this, or any other matter, to the Secretary of State at this stage in breach of procedural propriety.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324965/Local_authority_health_scrutiny.pdf

² To be read, in this case, in conjunction with regulation 30(5).

The Trust's Position

The Trust strenuously objects to the decisions made on 5 February 2016 to refer the reconfiguration of the ARU to the Secretary of State. Setting aside the substantive arguments about the future of the ARU, which can be discussed at a more appropriate stage, the decision made on 5 February 2016 is premature, because consultation between the Trust, the relevant CCGs, and the relevant local authorities has not yet taken place, as required by regulation 23 and regulation 30(5) of the Regulations.

The Trust has no objection to proper consultation with the relevant local authorities about any reconfiguration of the ARU, which it considers should be conducted alongside the CCGs responsible for commissioning. The Trust wishes to make it clear that it is entirely open to alternatives to the closure of the ARU, and would be happy to explore any viable options that are raised during the consultation process. The Trust itself has been earnestly exploring alternatives to the closure of the ARU. However, it does not consider the Audit and Governance Committee of the Hartlepool Borough Council to be the proper body with which to consult. This is one of the reasons it sought an adjournment of the meeting with that body on 5 February, alongside pressing concerns about the "clinical expert" selected to give evidence to the convened Committee.

Hartlepool patients form only a fraction of the total number of patients seen at the ARU, which is also attended by patients from the Stockton and Durham areas and in lesser numbers by patients from other areas. As such, the Trust considers consultation around variations to the ARU should properly be made with the Stockton and Durham councils as well as the Hartlepool Borough Council.

According to the Regulation 30(5), where the Trust consults more than one local authority pursuant to regulation 23 (consultation by responsible persons), those local authorities **must** appoint a joint overview and scrutiny committee for the purposes of the consultation and **only** that joint overview and scrutiny committee may:

- make comments on the proposal;
- require the provision of information about the proposal; or
- require a member or employee of a responsible person to attend before it.

The Trust had hoped the Hartlepool Borough Council would appreciate the need to consult all affected local authorities and would convene a joint scrutiny committee to consider the matter accordingly, without the need for the Trust to contact each authority separately. However, if you will not agree to convene a joint committee voluntarily, the Trust will proceed to contact each local authority pursuant to regulation 23, thus requiring all contacted local authorities to appoint a joint committee to progress the matter.

Either way, as no consultation with the appropriate local authorities has yet taken place, it would be premature to refer to the Secretary of State the question of whether consultation on the proposal has been adequate, or whether the reasons (which will be set out during the consultation) are adequate.

Next Steps

We hope it is clear from the above that you should use the meeting you have scheduled for this week to retake your decision to refer this matter to the Secretary of State. We would instead invite you to refer consideration of the issue to a joint committee of affected authorities. The Trust will attend the

meetings of such a committee upon receipt of reasonable notice, to answer questions put by any and all affected local authorities as the statutory regime requires.

For the avoidance of doubt, we also consider it inappropriate to refer any previous closures at the Trust to the Secretary of State, as any challenge to previous decisions should have been made at the time.

The Trust would appreciate the opportunity to provide input on the appropriate experts and evidence to be put before a joint committee on the subject of the ARU, and will object, including by seeking assistance from the IRP and/or the Centre for Public Scrutiny if necessary, if it feels evidence put to a joint committee is not impartial or appropriate. We would remind you that the Trust is required by the Regulations (regulation 26) to provide the joint committee with information it may reasonably require in order to discharge its functions. The Trust considers a joint committee requires proper, impartial advice on the problems facing the ARU in order to discharge its functions in this case.

We would urge you again to remember that you should be taking such steps as are necessary to reach agreement on this issue before any referral is made to the Secretary of State³.

We would appreciate a response to this letter by Friday 19 February 2016. If anything is unclear, we would be happy to discuss any of the points above with you in more detail.

Yours faithfully

DAC Beachcroft LLP

DAC Beachcroft LLP

cc Hartlepool and Stockton on Tees CCG
Durham, Dales, Easington and Sedgefield CCG

³ DH guidance. page 6

Chief Solicitor

Civic Centre
Hartlepool
TS24 8AY

Tel: 01429 266522
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Our Ref: PJD/EA
Your Ref:

Contact Officer/Email: Mr P J Devlin Ext 3003



17 February, 2016

Sent by e-mail only: saking@dacbeachcroft.com

DAC Beachcroft LLP
100 Fetter Lane
LONDON
EC4A 1BN

Dear Sirs,

Assisted Reproductive Unit, University Hospital of Hartlepool

I am writing on behalf of Hartlepool Borough Council ("the Council") in response to your letter of 16th February 2016, written on behalf of the North Tees and Hartlepool Foundation Trust ("the Trust"), with respect to the Assisted Reproductive Unit, at the University Hospital of Hartlepool ("the ARU").

In your letter, you urge the Council's Audit and Governance Committee to reconsider its decision to refer to the Secretary of State its concerns about the Trust's variations to the ARU. You also say that the Trust has no objection to proper consultation with relevant local authorities about the reconfiguration of the ARU, but believe that this consultation should be with a joint committee of local authorities (the Council, and Stockton-on-Tees Borough Council and Durham County Council).

I can say that the Council is pleased that the Trust now recognises that consultation over the future of the ARU should be carried out. It is somewhat disingenuous for you to suggest that the reason why there had been no consultation to date was the fault of the Council. The real reason why no consultation has (in your words) 'yet taken place' is because the Trust deliberately chose not to consult with the Council before communicating its decision to cease providing licensed fertility services at the end of March. In your communication dated 11th January 2016, the Trust announced that the decision had been made, and gave reasons for this.

It was in response to this unilateral, and unexpected, announcement that the Audit and Governance Committee requested the attendance of senior personnel from the Trust to explain the decision at the committee's meeting of 5th February 2016. It was in response to this unilateral, and unexpected, announcement that the committee were minded to make a referral to the Secretary of State.

Since that meeting, the Council has instructed Leading Counsel to advise as to the lawfulness of the Trust's conduct. Leading Counsel's strong view is that the Trust had acted unlawfully in failing to consult with the Council before making its decision to cease

providing licensed fertility treatment at the ARU, in contravention of the plain wording of regulation 23(2) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ("the 2013 Regulations"). There was no sensible or rational reason for the decision to be taken without consultation: the narrow exception at regulation 23(2) did not apply. As a result, Leading Counsel was instructed to draft a letter before action inviting the Trust to rescind its decision to cease those services, failing which judicial review proceedings would have been launched.

Reading between the lines of your letter, the Council can infer that the Trust has received similar legal advice, and so I hope that it will not be necessary to initiate judicial review proceedings at considerable cost to the public purse. However, to avoid the Council having to take that action, you are asked to confirm by return (and by 25th February 2016 at the latest) that the Trust will:

- (a) rescind the decision to cease providing licensed fertility treatment at the ARU as of the end of March 2016;
- (b) inform affected staff of this decision, and cease consulting with the trade unions and staff (as this will no longer be necessary) and withdraw any notices of termination that may have been issued; and
- (c) confirm that the Trust will consult with affected local authorities in accordance with the regulation 23(2), and will not cease the licensed treatment services at the ARU until after the conclusion of the consultation process.

If the Trust agrees to these matters, then

- (i) the Council will not initiate judicial review proceedings;
- (ii) the Chairman of the Audit and Governance Committee will suggest to the committee, and the statutory officers will advise the committee, not to make a referral to the Secretary of State (the committee is due to meet on February 26th). As a constitutional matter, this decision has to be taken by the committee itself, given that it will be reconsidering a recommendation that it has already made;
and
- (iii) The Chairman will also recommend to the Audit and Governance Committee that a joint committee be convened with Stockton and Durham councils to consider the Trust's *proposal* concerning the ARU in accordance with regulation 30 of the 2013 Regulations. (Again, this decision needs to be made by the committee itself).

I note that, in your letter, you state that 'The Trust wishes to make it clear that it is entirely open to alternatives to the closure of the ARU, and would be happy to explore any viable options that are raised during the consultation process'. I take this to mean that the Trust will enter into the consultation process with an open mind, with no fixed decision having been made, and will conduct the consultation in accordance with the principles laid down by the Supreme Court in R (Moseley) v London Borough of Haringey [2014] 1 W.L.R. 3947.

If the Trust is not prepared to agree to the matters set out in the previous paragraphs by 25th February 2016 at the latest, the Chairman of the Audit and Governance Committee will suggest, and statutory officers will give advice, to the committee that (a) judicial review proceedings be instituted and a claim for interim relief so that the service can continue pending the outcome of lawful consultation (and given your response, there will be no

point in sending a letter before claim: this letter will be treated as *if* it was a letter before claim) and (b) a formal referral be made to the Secretary of State.

I clearly hope that that will not be necessary.

Thank you in anticipation.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Peter Devlin', with a long, sweeping horizontal stroke extending to the right.

PETER DEVLIN
CHIEF SOLICITOR

cc

Alan Foster (Foundation Trust)
Paul Garvin (Foundation Trust)
Ali Wilson (CCG)
Mike Hill (Unison)
Iain Wright MP
Greg Canning (RCN Representative)
Paul Atkinson (BMA Representative)
Councillor Christopher Akers-Belcher (Leader of the Council)
Gill Alexander (Chief Executive)
Audit & Governance Committee Members

Our Ref: SRAK/NTH001-1089255
19 February 2016

Members of the Audit and Governance Committee

Hartlepool Borough Council
Level 4 Civic Centre
Victoria Road
Hartlepool TS24 8AY

For the attention of:

Christopher Akers Belcher (leader of the Council)
Gill Alexander (Chief Executive)
Ray Martin Wells (Chair of the Audit & Governance Committee)
Peter Devlin (solicitor and governance officer)

Dear Sirs

Assisted Reproductive Unit, University Hospital of Hartlepool

We write in response to your letter of 17 February 2016. As you will appreciate, the issues you raise require consideration by the Trust Board in order for a decision to be made, and as such we are not in a position to respond to you substantively today. We will respond by 25 February 2016, as requested.

In the meantime, we wanted to inform you that owing to the short notice given, and to pre-planned leave, the timing of your meeting on 26 February causes the Trust some difficulty.

We understand from your email of 16 February that you had been expecting the Trust to give a presentation at the 26 February meeting. You had also requested that the Trust provide you with some additional information about the proposals around the ARU. However, we assume that your letter of 17 February supersedes this email. From your letter of 17 February, we understand you will now use the meeting to decide (dependant on the Trust's position):

- Not to initiate judicial review proceedings;
- Not to refer this matter to the Secretary of State; and
- To refer consideration of the ARU proposals to a joint committee of the Hartlepool, Stockton and Durham councils.

Given the revised agenda for the meeting, the Trust understands that your meeting will be able to go ahead in its absence. It assumes you no longer require its presentation, or the provision of the information requested in your email of 16 February, as this should now properly be provided to the joint committee.

If you do require the Trust's attendance at your upcoming meeting, we would request the meeting be rescheduled to Tuesday 1 March, when the Deputy Chief Executive of the Trust would be able to join. The Trust will, of course, attend meetings of the joint committee upon reasonable notice to discuss this issue substantively.

Yours faithfully

DAC Beachcroft LLP

DAC Beachcroft LLP

cc Hartlepool and Stockton on Tees CCG
Durham, Dales, Easington and Sedgefield CCG
Stockton-on-Tees Borough Council
Durham County Council

Contact Officer/Email: Mr P J Devlin Ext 3003

Our Ref: PJD/EA
Your Ref:

22 February, 2016

Sent by e-mail only: saking@dacbeachcroft.com

DAC Beachcroft LLP
100 Fetter Lane
LONDON
EC4A 1BN

Dear Sirs,

Assisted Reproductive Unit, University Hospital of Hartlepool

Thank you for your letter dated 19th February 2016, addressed to members of the Council's Audit and Governance Committee.

It is noted that the issues raised in the Council's correspondence on the 17th February requires the deliberation of the Trust Board. That is accepted and it is anticipated that your response (by the 25th February 2016) will be both positive and constructive.

I am given to understand that intimation from senior officers of the Foundation Trust is that the reconvened Committee meeting date of the 26th February was acceptable to them in order to avoid "pre-planned" leave occurring the previous week. Further, that there would be some form of Trust representation at this reconvened meeting, given the obvious failure for any representative to attend the meeting on the 5th February, 2016.

Your correspondence will be brought to the attention of the Committee at its meeting on the 26th February, wherein adequate public notice has been given, particularly noting the interest generated by the particular item of business before the Committee. It would not go remiss for a Trust representative to be available for this reconvened meeting, given the issues raised in the Council's correspondence of the 17th February and how this matter should now properly proceed as advised in that communication. This would also be consistent with the 'duty' to attend under Regulation 27, as previously highlighted.

Yours sincerely



PETER DEVLIN
CHIEF SOLICITOR

Cc Alan Foster (Foundation Trust)
Paul Garvin (Foundation Trust)
Ali Wilson (CCG)
Mike Hill (Unison)
Iain Wright MP
Greg Canning (RCN Representative)
Paul Atkinson (BMA Representative)
Councillor Christopher Akers-Belcher (Leader of the Council)
Gill Alexander (Chief Executive)
Audit & Governance Committee Members

https://www.rcn.org.uk/emp NHS pay scales 2015-16

NHS pay scales 2015-16

You are here: [Home](#) / [Employment and Pay](#) / NHS pay scales 2015-16

Pay scales for NHS nursing staff in England, Wales, Scotland and Northern Ireland from 1 April 2015.

England Wales Scotland Northern Ireland

Annual Hourly

Band 7	Band 8A	Band 8B	Band 8C	Band 8D	Band 9
£31,072	£39,632	£46,164	£55,548	£65,922	£77,850
£32,086	£40,964	£47,559	£57,069	£67,805	£81,618
£33,227	£42,612	£49,968	£59,016	£70,631	£85,535
£34,876	£44,261	£52,757	£61,779	£74,084	£89,640
£35,891	£46,164	£55,548	£65,922	£77,850	£93,944
£37,032	£47,559	£57,069	£67,805	£81,618	£98,453
£38,300					
£39,632					
£40,964					

10:07
23/02/2016