

ASSOCIATION OF
COMMUNITY HEALTH COUNCILS
FOR ENGLAND & WALES

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Laura McMurtrie
Chief Executive
CPPIH
Ladywood House
45 Stephenson Street
Birmingham
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17/03/03

Dear Laura,

I hope that the work of the CPPIH is proceeding well.

There are a number of major issues that we would like to discuss with you to follow up both our last meeting on February 19th and the recent debates in the Houses of Parliament.

I attach opinions prepared by our legal adviser Marion Chester on the establishment of Patients' Forums and ICAS. We would very much like to discuss these with you and in particular our shared concern that the legislative framework for the new system should be sound.

The key issues we would like to discuss with you are as follows:

- a) **Patients' Forums:** Marion's opinion is that the decision to transfer the responsibility from the CPPIH to the voluntary sector amounts to an unlawful delegation of function. Her view is also that the Secretary of State would require legislative permission to delegate his responsibility for setting up Patients' Forums to the CPPIH and probably further Regulations. This opinion has been given to the Health Minister and was discussed in Parliament on March 10th. As you know David Lammy said in Parliament that his own legal advice disputed the ACHCEW's legal opinion. We have not yet seen the DH own opinion on this matter.
- b) **ICAS:** Marion Chester's opinion is that the CPPIH has not been given the functions of management or commissioning or establishment of advocacy services and would be acting ultra vires were it to take on these functions. Sarah Mullally's letter sent in February 2003, states that the 'The Department, working with the Commission will have an Independent Complaints Advocacy Service in place from 1st September'. The Minister's view on the type of service to be provided is contained in the Common's Hansard Report for March 10th 2003. We would like to discuss in detail how this service will be provided and the legislative framework that might be needed to ensure that it can be provided effectively and lawfully.

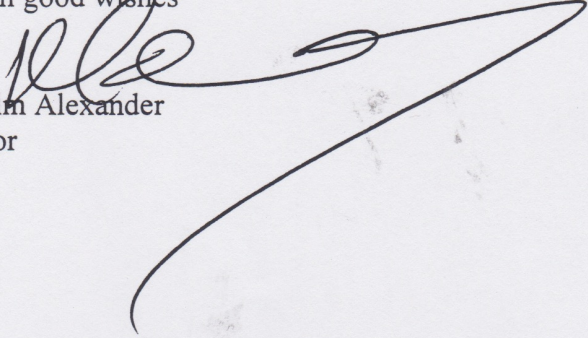
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c) **Health and Social Care (Community Health and Standards) Bill:**

We are very pleased that you have made progress with extending the rights of Patients' Forums with Foundation Trusts and would like to discuss this further with you.

I will be writing to you shortly with a number of other details questions raised by CHCs.

With all good wishes


Malcolm Alexander
Director