Dear Chair

I am writing this letter following the hearing into Elective Care and Cancer Waiting times on Wednesday 24 April 2019. This letter addresses queries raised by Committee members which I offered to follow up with further information. Ian Dalton has written to you separately on day admissions.

Public consultation regarding changes to NHS waiting times standards:

The committee raised the issue of whether any proposed changes to NHS waiting times standards would be subject to public consultation. This was further to earlier, related, parliamentary questions asked by the MP for Brighton Pavilion and the MP for Redcar. The answers to these questions had set out that changes to the NHS Constitution would be consulted upon as legally required, but that there is no requirement to hold a consultation to make changes to the NHS Constitution Handbook. The Chair asked what this means ‘in reality’. I am happy to provide some further explanation which I hope will clarify the position for the committee.

The NHS Constitution includes ‘rights’ and ‘pledges’ related to the access to NHS services and waiting times. The detail and substance of these access standards (e.g. the waiting time) are set out in the Handbook to the NHS Constitution rather than the NHS Constitution itself.

Section 3 of the Health Act 2009 sets out provisions related to the NHS Constitution. These place a statutory duty on the Secretary of State to consult, including with patients, NHS staff and members of the public, on a review of the NHS Constitution and to publish any revisions to the NHS Constitution following a review. There is no legal requirement to consult on changes to the Handbook to the NHS Constitution. For the avoidance of doubt this means that if the NHS Constitution remained unchanged
but the Handbook was amended, there would not be a legal requirement to consult under Section 3 of the Health Act.

However, regardless of the legal position, the interim report published in March committed that 'before any final changes are implemented to access standards which are set out in legislation (elective care and cancer care) and which are detailed as rights or pledges in the NHS Constitution Handbook (elective care, cancer care, and urgent and emergency care), a public consultation will be conducted.' The committee should be reassured therefore that the Government and NHS is committed to public consultation where changes to the access standards are proposed.

I would also like to emphasise to the Committee that the proposals published in the interim report will be rigorously tested. A review panel will undertake extensive engagement ahead of the NHS presenting evidence and making final recommendations to Government in Spring 2020.

**Connectivity issues within local GP practices:**

Committee member Anne-Marie Trevelyan raised the issue of digital service provision in her constituency which has resulted in poor quality broadband connectivity within GP practices. I can now share an update from NHS Digital on measures being taken in the local area to help improve the service.

Availability of superfast broadband in the borders region which the member represents is 85% against a national average of 95%. As a result, the area is a priority for the Department of Culture, Media and Sport’s Regional Gigabit Connectivity Scheme. Specifically, at health sites, circa 90% already have or are migrating to high quality (ethernet) connectivity as part of their migration to Health and Social Care Network (HSCN), which has commenced in the region. Sites using ethernet should not experience any network related performance issues, however, a handful of sites (5 by NHS Digital records) are currently still planning to use low bandwidth ADSL services post HSCN migration.

NHS Digital will work with NHS Northumberland CCG and the Northumbria Healthcare NHS Foundation Trust, the HSCN suppliers in the region (BT and IT Professional Services) and DCMS to ensure the GP sites in the region remove their reliance on low bandwidth ADSL services at the earliest possible point. In due course, all sites will be upgraded to high bandwidth full-fibre connectivity where they do not already have this, in line with the Secretary of State commitment of 30 April 2019.

**Patient’s right to a maximum waiting time of 18 weeks:**

Finally, you also asked about the rights that patients have to a maximum waiting time of 18 weeks under the NHS Constitution. The NHS Constitution provides that patients
have the right to access certain services commissioned by NHS bodies within maximum waiting times, or for the NHS to take all reasonable steps to offer a range of suitable alternative providers if this is not possible. The target upon which this is based requires the NHS to ensure that not less than 92% of people wait less than 18 weeks for appropriate treatment to commence. This target allows 8% not to meet the target, and so does not give rise to individual patient rights.

Yours sincerely,

SIR CHRIS WORMALD
PERMANENT SECRETARY