

Healthwatch Leicester – Briefing Paper from VAL for joint Scrutiny Commission (Adult Social Care and Health) - 27th January 2015.

This briefing paper is designed in response to specific questions asked by the Scrutiny Policy Officer.

Q1 - What resulted in the breakdown with Healthwatch?

There is no breakdown with Healthwatch, the service and 'voice' of Leicester people is still operating. In the last quarter we have:

- Increased Healthwatch Leicester membership by 7% (now there are **1055** Healthwatch Leicester members (up from 752 at the start of Healthwatch Leicester)),
- Completed our first 'Enter and View' report (publication due before the joint scrutiny meeting)
- Launched a report on the Health and Well Being experiences of Leicester's Deaf Community,
- Held a highly successful 'pop up conversation' with the public in Leicester Market just before Christmas.

What has happened is a disagreement over future arrangements with Healthwatch Leicester – specifically whether it should remain as a contract held by VAL (running until end March 2016) or should be handed over by VAL to a newly established body (Healthwatch Leicester Limited).

When the contract was let in 2013, following an open competitive tender, the City Council insisted that VAL change the approach it had originally proposed in its tender. The Council insisted that VAL could not be Healthwatch, and that VAL should agree to a 12 month timetable to set up a separate independent body to deliver Healthwatch Leicester. This VAL reluctantly agreed to – though then we were surprised to then be given a three-year contract to sign by the Council. Despite repeated requests the Council did not disclose how it proposed to contract with a newly established separate body – VAL made it clear that it would not act as a prime contractor with the separate body as a sub contractor.

Although the Council was contracting with VAL to set up and run Healthwatch Leicester it also insisted that VAL take a "...back seat..." in the development of the independent body. VAL appointed Philip Parkinson as interim chair of the Healthwatch Leadership group and he proceeded to set up a committee, establish a Community Interest Company (in December 2013), and recruit a new Board. This process (with background VAL support) did not create an independent body ready to take over Healthwatch Leicester by the original deadline of 1st April 2014 – in the meantime VAL continued to focus on the delivery of an effective Healthwatch service for the people of Leicester. In parallel Healthwatch Leicestershire (using VAL's

original proposed model) was developing fast into an extremely effective voice for patients and service users in the County.

It was made clear in February 2014 that the mechanism the Council wished to use was for VAL to novate the contract to the new body. Novation is commonly used to transfer a contract where a supplier has got into difficulty – this made the VAL Trustee Board uncomfortable as we were not in difficulty in delivering Healthwatch.

On 17th April for the first time the City Council issued a list of requirements to the new chair of Healthwatch Leicester Ltd it was headed “**An independent Healthwatch organisation would need to be able to demonstrate/prove /achieve/provide the following in order for a contract to be appropriately and safely be held by them**” VAL’s opinion was that these requirements would be exceedingly difficult and in some cases impossible for the new organisation to meet, as they were in effect the Business Questionnaire requirements for a full tender application.

Six months later (October 2014) the independent Board had completed many of the requirements and received waivers on others such as finance although there was still no identified Treasurer, and there was still no Bank Account. At his point VAL was asked to novate the contact. The VAL Chief Executive wrote a letter to the City Council detailing a range of serious concerns.

It was a VAL Trustee Board decision about whether they should hand over the contract for Healthwatch Leicester they won in open competitive tender. The VAL Trustee Board felt the proposed new arrangements would result in a weaker, less resilient, and less impactful Healthwatch service for Leicester City. VAL felt the City Council was ignoring the evident success of the VAL model for delivery of Healthwatch (as evidenced in Leicestershire). They also felt that the significant advantage for Leicester people of co-location of the Healthwatch Leicester service with the Healthwatch Leicestershire service would be damaged or lost entirely. So even though the post tender agreement with the City Council was to set up a separate body, VAL felt that to do so would be seriously detrimental to the people of Leicester.

VAL was keen for the Healthwatch Leicester Board to continue to work with us – but a number of them have taken the decision to resign.

Q2 – How is Healthwatch work currently being covered?

There are four Board members of Healthwatch Leicester still in place (Helen Child, Gill Brigden, Sue Mason and Brian Wheeler), and plans are underway to recruit new Board members. The staff team are continuing to work hard providing information and signposting to individuals, working with Health and Social Care colleagues on policy and practice development, engagement with the wider community and the **next formal Enter and View** is planned for w/c 21 January 2015 of Rushey Mead Manor Care Home.

The Enter and View team is chaired by Sue Mason, and has the following volunteers as authorised Enter and View representatives Philip Parkinson, Sue Mason, John Bryant, Kim Marshal-Nichols, Pat Hobbs, Michael Gilhooley and Moraig Yates

In partnership with Healthwatch Leicestershire we have planned **one week at UHL** - w/c 26 January 2015 – the departments to be included are:

- Accident & Emergency (A&E)
- Ears, Nose and Throat Department (ENT)
- Ophthalmology Department (Emergency & Clinic)
- Discharge Lounge

Care Quality Commission Inspection at Leicestershire Partnership (9-13 March 2015) – In readiness for the above we will be gathering information from people who use the service by putting out targeted callouts to local residents and networks via:

- Marketing Campaign to community hubs, libraries, schools, Children's Centre, VAL Health & Social Care and CYP Forums; GPs and Community Hospitals, VSC stakeholders, PPGs groups and forums
- Targeted Tweets and Media Releases
- Drop in Clinics at identified City venues where community based services are provided: Braunstone Health & Social Care Centre/Merlyn Vaz Health Centre

Complaints Working Group

The purpose of the Health and Social Care Complaints Task group is to undertake to improve Health and Social Care Complaint handling across Leicester, Leicestershire and surrounding areas for patients and members of the public. It is currently working with UHL on their complaints process, and has established complaints standrads for Better Care Together.

Future plans are to look at:

- Social Care complaints
- Public survey on Complaints working with NHS England

See Appendix at the end of this report for a summary preview of Healthwatch Activities for Quarter 3 2014-15

Further information about the work of Healthwatch Leicester can be found on the Healthwatch Leicester website (<http://www.healthwatchleicester.co.uk/>) and in the first Healthwatch Leicester Annual Report (<http://www.healthwatchleicester.co.uk/resources/healthwatch-leicester-annual-report-201314>)

Q3 - Is this work meeting the legal requirement to ensure we have a service such as Healthwatch in the city?

Yes. Leicester has a functioning local Healthwatch service that is required under the *Local Government and Public Involvement in Health Act 2007* – subsection 221(2) as amended by the *Health and Social Care Act 2012* – sub section 182 to:

221(2) The activities for a local authorities area are-

- (a) promoting and supporting the involvement of local people in the commissioning, the provision and scrutiny of local care services;
- (b) enabling local people to monitor for the purposes of their consideration of matters mentioned in subsection (3), and to review for those purposes , the commissioning and provision of local care services;
- (c) obtaining the views of local people regarding their needs for, and experiences of, local care services;
- (d) making –
 - (i) views such as are mentioned in paragraph (c) known, and
 - (ii) reports and recommendations about how local care services could or ought to be improved,to persons responsible for commissioning, providing, managing or scrutinising local care services and to the Healthwatch England Committee of the Care Quality Commission.
- (e) providing advice and information about access to local care services and about choices that may be made with respect to aspects of those services;
- (f) reaching views on the matters mentioned in subsection (3) and making those views known to the Healthwatch England Committee of the Care Quality Commission.
- (g) making recommendations to that committee to advise the Commission about special reviews or investigations to conduct(or, where the circumstances justify doing so, making such recommendations direct to the Commission);
- (h) making recommendations to that committee to publish reports under section 45C(3) of the Health and Social Care Act 2008 about particular matters; and,
- (i) giving that committee such assistance as it may require to enable it to carry out its functions effectively, efficiently and economically.

subsection (3) The matters referred to in subsection (2)(b) and (f) are:

- (a) the standard of provision of local care services
- (b) whether, and how, local care services could be improved;
- (c) whether, and how, local care services ought to be improved;

The relevant legislation *Health and Social Care Act 2012* and *Local Government and Public Involvement in Health Act 2007* requires that local Healthwatch is **a body corporate and a social enterprise** – both criteria fulfilled by VAL’s registered charity status. Specifically subsection 222(2) of the 2007 Act (as amended by the 2012 Act) states:

222(2) The arrangements must be made with a body corporate which-

- (a) a social enterprise, and
- (b) satisfies such criteria as may be prescribed by regulations made by the Secretary of State

The regulations (2012) spell out what is defined as a social enterprise (section 35 (1) and (2)) – but these criteria do not apply to a company limited by guarantee registered as a charity in England and Wales (section 35 (3))

The legislation and subsequent regulation (*The NHS Bodies and Local Authorities*

(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch regulations 2012) also requires Healthwatch **to be independent** of Local Government and Health, specifically subsection 222(3) of the 2007 Act (as amended by the 2012 Act) states:

222(3) None of the following is capable of being a Local Healthwatch Organisation-

- (a) a local authority
- (b) a National Health Service Trust
- (c) an NHS Foundation trust
- (d) a Primary Care Trust, or;
- (e) a Strategic Health Authority

The intent of the legislation is that Healthwatch should be independent of the public sector – as VAL is.

Q4 - What are the future plans for Healthwatch?

VAL has advertised for new Healthwatch Board members and aim to have a refreshed Board in place by end March 2015.

VAL will continue to provide the support for a successful Healthwatch Leicester – just as we have successfully supported Healthwatch in the County.

VAL believes the City Council should embrace the successful model for Healthwatch that VAL is delivering in Leicestershire (considered a ‘perfectly acceptable’ model by Healthwatch England). This provides for an independent Board that gives leadership, strategic direction and lay representation to Healthwatch; backed by VAL employed Healthwatch Leicester staff members who provide support, expertise and resilience to the service. Healthwatch Leicester will be ‘owned’ by the Healthwatch Leicester Board and membership and delivered in partnership with VAL (an independent body corporate and social enterprise).

The City Council will be commissioning with an organisation that has a solid track record, history of excellent accountability, and financial resilience.

Kevan Liles
Chief Executive, VAL

16th January 2015.