



Leicester
City Council

Minutes of the Special Meeting of the
HEALTH AND WELLBEING SCRUTINY COMMISSION

Held: TUESDAY, 25 NOVEMBER 2014 at 5:30 pm

P R E S E N T :

Councillor Cooke (Chair)
Councillor Cutkelvin (Vice Chair)

Councillor Chaplin

Councillor Grant

* * * * *

70. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bajaj and Sangster, who was on other Council business. An apology for absence was also received from the Deputy City Mayor.

71. DECLARATIONS OF INTEREST

Members were asked to declare any interests they might have in the business on the agenda.

Councillor Cooke declared an Other Disclosable Interest in Minute No 72 as he had previously been the Chair of the LIFT Partnership Board when the Merlyn Vaz Centre was commissioned. He also had personal experienced from being a patient of a medical practice that had closed at short notice.

In accordance with the Council's Code of Conduct the interest was not considered so significant that it was likely to prejudice Councillor Cooke's judgement of the public interest. Councillor Cooke was not, therefore, required to withdraw from the meeting during consideration and discussion on the item.

72. RELOCATION OF THE HIGHFIELDS MEDICAL CENTRE

The Chair welcomed everyone to the meeting and stated that the Commission was primarily concerned with the closure of the Highfields' Practice. The closure of the Moira Street premises had been less problematic for patients moving to other practices.

The Chair outlined the following for the benefit of those attending:-

Background for the Review

At the last Commission meeting on 4 November 2014, the Commission had noted a petition, forwarded from NHS England, expressing patients concerns about the relocation of the Highfields' Medical Centre. The petition had 631 signatures and the signatories were concerned that the Highfields' Medical Centre had been relocated to the Merlyn Vaz Centre without adequate consultation with patients.

The Commission had also noted the legal advice that, as the petition was originally submitted to NHS England and then shared with the Commission, it would not be appropriate to accept it as a formal petition to the Council. However the concerns raised in the petition were issues that could legitimately be scrutinised under the health scrutiny regulations.

The Commission had, therefore, noted the concerns outlined in the petition as a representation/statement of case, and also agreed to hold a special meeting of the Commission to discuss the matters that had been raised and to hear evidence from interested parties.

Terms of the review

This review of the relocation of the Highfields' Medical Centre would focus on the lessons to be learnt and to see if there was a better way to deal with these types of issues in the future.

The legal advice indicated that the Commission should only be concerned with the structural and service issues around the move to the new premises, the consequences to patients of the move and the NHS England's response. The clinical concerns raised in the petition about repeat prescriptions and telephone waiting times were not issues that the Commission could scrutinise, as these were essentially operational issues which were the responsibility of the Care Quality Commission.

Participants in the Review

The Chair stated that the following interested parties had been invited to attend the meeting to present evidence or submit written representations and he would invite them to speak in the following order:-

NHS England
Leicester City Clinical Commissioning Group
Spinney Hills Ward Councillors
Healthwatch
Chair and Representatives of Patient Participation Group
The owner of the Highfields' Medical Centre
Practice Manager and GPs at Highfields' Medical Centre

The limited time available had not allowed individual patients to submit evidence at the meeting, but their written representations had been invited in advance of the meeting through the Patient Participation Group.

NHS England

An initial statement and a subsequent report had previously been circulated to Members of the Commission.

Ms Amanda Anderson, Medical and Pharmacy Contract Manager and Ms Lesley Harrison, Pharmacy and Medical Lead addressed the Commission on behalf of NHS England and in addition to the written submission stated:-

- NHS England would have undertaken a full and formal consultation process with patients if the relocation of the practice had been one that was planned in advance.
- NHS England's response in this instance was primarily based upon ensuring continued care for patients; given the short timescales involved.
- There were approximately 8,000 patients involved in the relocation who were registered with the practice. The practice had operated on two sites which were both owned by the senior partner in the practice. The senior partner had resigned from the practice and had retained ownership of the properties.
- The new partnership had been unable to agree terms for the lease of the buildings and the issue only became urgent when the owner of the buildings served a notice to quit on 28 August 2014 to vacate the buildings by 16 October 2014.
- The sequence of events from the first contact with the NHS England Area Team in March 2014 by Dr Sinah concerning the proposed lease was outlined in the report, which had previously been circulated to Members with the agenda. NHS England had given advice in relation to negotiating a new lease.
- NHS England was not aware that there was any intention to issue an eviction notice until after it had been served. Until that point, NHS England had been proceeding on the basis of contingency planning. Once the eviction notice had been served, NHS England had been involved in securing alternative accommodation for the practice at the Merlyn Vaz Centre and the Belgrave Health Centre. Both these buildings were LIFT buildings and NHS England had been involved in seeking approval from Community Health Properties (CHP) for the practice to use them.
- Since the relocation of the Highfields' Medical Practice, NHS England had been in contact with other medical practices in the area

to identify any consequential impact upon them. As a result, additional resources had been made available to one practice that was experiencing high volumes of new patient registrations to help with the registration costs and clinical patient checks.

- NHS England were not responsible for finding premises for any practice, but the Area Team had provided assistance in this instance in the interests of patients' welfare.
- The new premises used by the Highfields' Medical Practice were both purpose built LIFT buildings and offered a whole range of other services of care.

Following questions from Members, it was stated:-

- Although there was national guidance for consulting on proposed planned service changes, there was no guidance that covered situations such as this where an eviction notice had been served.
- NHS England had written to all patients affected by the re-location, but it was not possible to include definitive timescales as these were not known. NHS England felt that they had informed the patients at the earliest opportunity given the circumstances of the situation. The PPG had been contacted on 10 October 2014 and it was not possible to inform the wider public at that stage as the information on the new premises to be used by the practice was not known at that time.
- The normal methods of consultation were not appropriate in this instance as the serving of an eviction notice was not an event that had been expected; particularly as it was envisaged that the owner of the property would still wish to receive an income from the properties.
- It had been decided to use the terminology of 'failed to reach an agreement on the lease' rather than refer to 'eviction' as NHS England did not want to exacerbate the situation. In hindsight, it was accepted that the letter could have been worded differently to express the 'urgency' of the situation.
- The letters to patients were sent through a shared service and should have been enclosed in an envelope and addressed to the householder, asking the person opening it to share the information with others in the household.
- The finding of alternative premises, which offered better facilities in the community, was seen as a benefit to the community.
- NHS England did not have details of medical practices that were located in non-NHS owned premises; as it was each practice's

responsibility to provide the premises in which to fulfil their contract with NHS England. The situation at the Highfields' Medical Practice was the first of its kind in the last 20 years and it was not possible to say that a similar situation may not occur again in the future.

- There was no guidance or statutory requirement to inform patients of changes in partners in a medical practice. These details would, however, be changed on patient leaflets issued by the medical practice and on the NHS Choices website.
- NHS England did not have access to individual patient identifiers, so it was not possible to identify the most vulnerable patients at risk as a consequence of the relocation. However, all patients have the choice to register with a practice if they reside in the qualifying boundary of the practice. All practices in the City currently had 'open patient lists' and were required to register patients within their catchment areas if requested to do so.
- Although partners within a practice may change, the medical practice still remained as the same legal entity.
- The period of notice for closing a practice depended upon the type of contract with NHS England, but generally the minimum period was 6 months. However, a sole partner practice was only 3 months. There was a statutory requirement for an individual doctor to give 28 days' notice to the Area Team if they intended to leave a practice.
- The relocation of the premises to the two LIFT buildings would incur higher costs than compared to a converted house. NHS England would be contributing more to the rental costs and so would the practice itself. The space used by the Highfields' Medical Practice in the Merlyn Vaz Centre was previously unoccupied, which had a cost impact to NHS England. The effects of providing more resources to the practice to occupy this space compared to the cost of the space being unoccupied, were broadly cost neutral to NHS England.
- Community Health Properties were part owned by the NHS.
- Public funds/grants would have been made available to improve and adapt the residential property for use as a medical centre. There was a claw-back provision to reclaim grants if there had not been sufficient use of the building during the agreement period.
- There were three types of contracts between those providing medical services and NHS England. These were General Medical Services (GMS), Personal Medical Services (PMS) and Alternative Provider Medical Services (APMS). Some contracts were time limited to between 2 – 5 years, but the General Medical Services Contracts were nationally negotiated contracts with no time limits.

- PMS Contracts were underpinned by statutory regulations and there were no provisions that required the continued use of premises throughout the period of the contract. Individual medical practices were responsible for negotiating and securing premises to enable them to discharge their responsibilities under the contract with NHS England.
- NHS England had processes in place to undertake reflective learning and implement any lessons learned to improve service provision in the future.
- There was national guidance for terms of reference of PPGs, but this was not an NHS function. The role and remit of a PPG was essentially in the gift of the individual practice and there was responsibility or requirement for the CCG or NHS England to oversee this relationship. Guidance was, however, issued to support practices in working with their PPG, but there was no formal remedy if a practice did not follow any advice that was given.

Members made the following comments:-

- The public perception and expectations may have been different if the letter to patients had referred to 'eviction' as the reason for urgency.
- The resignation of a doctor from a practice could fundamentally change the ability of the practice to fulfil its contract.
- There should be some provision to ensure the continued use of premises during the contract period.

Leicester City Clinical Commissioning Group

Richard Morris, Chief Corporate Affairs Officer, addressed the Commission on behalf of the Leicester City Clinical Commissioning Group and stated:-

- The CCG had no jurisdiction over GPs contracts or the premises used by them.
- The CCG recognised the fast moving and unusual circumstances in this case and had an interest in ensuring that patients continued to have high quality services delivered as close as possible to where they lived.
- It was disappointing that patients were not involved earlier; as this could have led to the situation being better managed.
- The CCG were not involved until later in the process. Had they been involved earlier, they might have been able to provide advice/support to give some additional leverage to the GP issues.

- The CCG had submitted an expression of interest to NHS England to participate in the proposals for co-commissioning of GP services with NHS England. Further guidance on this proposal was expected in January when CCGs would need to decide if they wished to make a formal application. The CCG were likely to pursue their application, but it was not known at what level of participation this was likely to be. Co-commissioning would give the CCG greater ability to take local factors into account on decisions in relation to GP services.

Spinney Hills Ward Councillors

Councillors Aqbany, Dr Chowdhury and Dawood addressed the Commission as Ward Members and stated:-

- They had concern that patients' interests had not been safeguarded.
- There were concerns that there was a lack of sincerity between the different parties involved in the issue.
- Jon Ashworth MP had been involved in the petition to NHS England on behalf of constituents , but had not been involved in the stakeholders briefing.
- All patients did not appear to have been treated in an equitable manner.
- The 8,000 patients registered at the practice did not all have the same opportunity of choice; particularly those who had mobility issues and found difficulty in walking to the Merlyn Vaz Centre. There were also parking issues with the new premises used by the practice.
- There should be an audit of how many medical practice premises were owned by GPs and a risk register produced.
- Although many patients had remained with the practice, they were not necessarily happy with the new arrangements.
- There were concerns that neighbouring practices did not have the capacity to take patients from the Highfields' Medical Practice.

Following questions from Members of the Commission, the following statements were noted:-

- The General Medical Council issued 'Good Medical Practice' guidance and whilst this included general issues of openness, integrity and transparency, there was no specific requirements covering situations where GPs did not respond to correspondence etc.
- 7,300 patients had chosen to remain with the Highfields' Medical

Practice. 500 had subsequently registered with other practices; 300 with one single practice and the remaining 200 were distributed amongst a number of practices in the Highfields and Belgrave areas. Of the latter, most practices had received around 20 new patients and one approximately 70 new patients. The single practice receiving 300 new patients had reported that the volume of new patient registrations was now tailing off. There was a view that those patients who wished to move to a new practice had now done so.

- None of the other surgeries in the area were turning patients away from registering.

Members further commented that:

- That patient choice was also affected by the capacity of other medical practices in the locality to take on additional patients.
- They considered that patients had not exercised their right to stay registered with the practice but had chosen at this stage not to leave the practice. Some patients may still be unaware of the new arrangements until they make their first appointment at the new premises.

Healthwatch

Karen Chouhan, Chair of Healthwatch Leicester, commented:-

- Healthwatch's main concern was the way in which patients had been treated and it was felt that those involved had ignored the care of patients.
- Healthwatch had previously undertaken some work on the operation of PPGs and felt that their value was diminished if their work was effectively controlled by the GPs in the practice.
- It would have been preferable for an Equality Impact Assessment to have been prepared to consider the impact of the relocation of the medical practice; particularly those who were vulnerable and who did not speak English as a first language. The new premises were not on a direct bus service and this also had implications for patients.
- If patients and the PPG had been involved earlier, it would have improved the handling of the situation.

Chair and Representatives of Patient Participation Group

Mr Shiraz Khan, Chair of the PPG, had submitted a statement which had previously been circulated to Members of the Commission. Mr Khan stated:-

- He felt the system had not helped him to promote patients concerns.

- He felt the PPG had not been adequately consulted on the proposals and the PPG should have been involved at an earlier stage.
- He outlined various approaches for meetings and dialogue with the practice which he felt had not been adequately addressed, if at all. He had first asked for a meeting with the GPs on 1 August 2014
- 8% of the patients at the Highfields' Medical Practice had signed the petition.
- The PPG were not aware that the practice was proposing to move until 10 September 2014 when a meeting was organised by the practice. He had been unable to attend this meeting and it was chaired by the practice manager. Patients subsequently received a letter on 29 September 2014 indicating that the practice was moving to new premises on 13 October 2014. He felt that this short period of 2 ½ weeks was not sufficient.
- There had been a number of new requests for individuals to take part in the PPG in September.
- The practice had changed the terms of reference of the PPG so that the PPG were not able to discuss issues with external bodies. He felt this had restricted the effectiveness of the PPG.

In response to a question, he stated that he had been consulted on the agenda for the meeting held on 10 September, but although he had made comments upon it, he had not been able to attend.

Vijay Gohel, a representative of the PPG, had submitted a statement which had previously been circulated to Members of the Commission. Mr Gohel stated:-

- He had recently joined the PPG but felt the doctors had done as much as they could to make the move as smooth as possible in the circumstances.
- The Moira Street premises were not suitable as a surgery and had a number of problems.
- There was insufficient parking for patients at the Merlyn Vaz Centre.

In response to a Member's question he stated that it would have been better if patients could have been informed of the proposed move at an earlier stage.

Dr Jatin Patel, (Previous partner and owner of the previous premises used by the Highfields' Medical Centre)

Dr Patel stated:-

- He had never intended to serve an eviction notice but it had become an inevitable consequence of the process.
- He did not believe the new partners had any serious intentions of signing the lease.
- NHS England had been aware that the lease was not being signed.
- His lawyer had sent a copy of the proposed lease to NHS England to see if it was suitable, but he had never received a reply. He considered the lease contained standard terms and conditions. It had been suggested that the lease contained a provision for the sale of goodwill, but this was incorrect.
- He had been forced to serve the eviction notice; otherwise the new partners could have become sitting tenants. He understood that a representative of the PPG had approached the new partners to indicate that he would have been willing to extend period to vacate the premises to allow a consultation process to take place.

Following questions from Members, Dr Patel stated:-

- He had believed that the new partners would sign the lease shortly after they had signed the contract with NHS England in relation to the practice.
- The lease put forward to the new partners was on the same notional rent that existed when he resigned from the practice, with a review after three years.
- With hindsight, he could have asked the new partners to sign the lease before signing the new contract, but he put the concerns of patients foremost.
- He had made some changes to the lease during the course of the initial negotiations upon it.

Practice Manager and GPs at Highfields Medical Centre

A statement on behalf of the Highfields' Medical Centre had previously been circulated to Members of the Commission

Mr Saiful Choudhury, Business Development Manager, and Drs Chirag Patel, Farouk Patel and Amit Sinha addressed the Commission and stated:-

- The practice had approximately 7,500 registered patients. 4,900 were registered at the Highfields site and the remainder at the Belgrave site.
- Of the 4,900 patients registered at the Highfields site, 20% were resident

within Highfields and 80% resided outside the area.

- 11% of the 4,900 patients registered at the Highfields site had previously visited the Merlyn Vaz Urgent Care Centre whilst the old premises were being used. 5% of the 4,900 patients were considered to be housebound and it had been anticipated that 4% of the 4,900 would relocate to other practices. There had already been more than 4% of patients relocating and concerns were expressed that other factors such as scare-mongering and uncertainty could be factors.
- The practice was still receiving requests for appointments with Dr Patel, who left the practice in April 2014.
- The new partners had readily signed the 'continuity of care' agreement.
- The PPG were involved from the point where the partners had felt they were unable to offer continuity of care. It was not certain at the meeting arranged for 10 September 2104 that the practice would be moving to the Merlyn Vaz Centre.
- The amended terms of reference had been submitted to the PPG and had been accepted by 13 of the 15 members at the meeting.
- The practice had been aware that attendance at the 10 September meeting was difficult but they had made every effort to get people to attend in view of the urgency of the matter.
- As part of the lease negotiations, the practice had offered to purchase both properties as an option. Moira Street was not really suitable for use as a surgery but both the premises were a package within the proposed lease.

Following questions from Members, it was stated that:-

- The communications with patients had been sensitive to the previous partner in the practice and it was felt that, given the demographics of the patients registered with the practice, any reference to 'eviction' could have resulted in a negative reaction.
- There had been no previous agreement to move to the Merlyn Vaz Centre, this had only become an option after the notice to quit had been served.

The Chair commented that it may have been better at the outset to indicate that there was a problem in negotiating a lease and that the practice may need to move. This would have allowed an earlier dialogue and consultation with patients to produce a better outcome.

The Chair thanked everyone for their part in the meeting and for their openness in making their statements.

The Commission then considered the submissions and statements made to them and stated that they were disappointed that patients, in this case disadvantaged and vulnerable patients, had not been seen to be at the heart of services provided by the NHS; and there did not appear to be procedures and protocols in place that would address patients' needs sufficiently following the closure of a GP practice as a consequence of early retirement or loss of premises, as in this case.

The Commission RECOMMENDED that the principal partners responsible for supporting practice or patient relocations (NHS England, CCGs and local Councils) should agree a workable protocol to prevent a recurrence of what has happened at Highfields' Medical Centre.

Such a protocol should recognise the need for:-

- a) A set timetable for delivery;
- b) Early and honest patient engagement;
- c) Sound financial practices for the use of privately owned GP surgeries/premises that give security of tenure for patient use;
- d) Local democratic structures to be involved in the process;
- e) Patient Participation Groups (PPGs) to have Terms of Reference that reflect national standards and rules;
- f) Realistic timescales to implement tenancy contracts in NHS Local Improvement Finance Trust (LIFT) buildings owned by Community Health Properties – the time frame should not be longer than 2 months; and
- g) An Equality Impact Assessment to be prepared to underpin the process.

The Commission also stated that to be effective all parties would need to work in the spirit of partnership.

The Commission FURTHER RECOMMENDED that Parts 2 and 3 of the residents' petition be referred to the Care Quality Commission (CQC) for investigation and appropriate action as these were not matters that could be dealt with by the City Council. The guidelines for scrutiny placed an obligation on the CQC to advise the Council of their decisions and actions taken.

73. CLOSE OF MEETING

The meeting closed at 8.25 pm.