



Leicester  
City Council

MINUTES OF THE MEETING OF THE  
LEICESTERSHIRE, LEICESTER AND RUTLAND JOINT HEALTH SCRUTINY  
COMMITTEE

Held: TUESDAY, 4 SEPTEMBER 2018 at 10.00am

P R E S E N T :

Councillor Cutkelvin – Chair of the Committee  
Dr R.K.A.Feltham CC – Vice Chair of the Committee

Leicester City Council

Councillor Chaplin

Councillor Dr Moore

Councillor Pantling

Leicestershire County Council

Mr T Barkley CC

Mrs A Hack CC

Mr D Harrison

Dr S Hill CC

Mrs J Richards CC

Mrs M Wright CC

Rutland County Council

Councillor Conde

Councillor Miss G Waller

In attendance

Micheal Smith – Manager of Healthwatch Leicester and Leicestershire

Dr Janet Underwood – Healthwatch Rutland

Harsha Kotecha – Chair of Healthwatch Leicester and Leicestershire

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**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Cleaver, Fonseca and Dr Sangster.

**2. DECLARATIONS OF INTEREST**

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

Dr Feltham, C.C. declared that he worked for the NHS in Northamptonshire.

Dr Janet Underwood declared that she had made a representation to Leicester City Council, that was independent to her position in Healthwatch Rutland. The representation related to the consolidation of the Level 3 Intensive Care Units. It was agreed that this did not constitute a declaration of interest that meant she could not continue with the upcoming debate.

**7. ANY OTHER URGENT BUSINESS**

The Chair agreed to take the following item of Any Other Urgent Business in accordance with the Scrutiny Procedure Rules Rule 14 (Part 4E) of the Council's Constitution.

The Consolidation of Level 3 Intensive Care

The Chair agreed to take the report as urgent on the grounds that it needed to be considered before the next meeting of the Leicestershire, Leicester and Rutland Joint Health Scrutiny Committee.

**8. THE CONSOLIDATION OF LEVEL 3 INTENSIVE CARE**

The Chair invited the following members of the public to read out their questions which had all been received in accordance with the Scrutiny Procedure Rules Rule 10 (Part 4E) of the constitution.

Ms Jean Burbridge

"The law requires commissioners and providers to involve the public when making changes to the provision of NHS healthcare. NHS bodies discharge this duty by carrying out consultations. There is no legal definition of service change but broadly it encompasses any change to the provision of NHS services, usually involving a change to the range of services available and/or the geographical location from which services are delivered. Not only is a change in service location being proposed in UHL's full business case, but it is a change in the location of a **core** service, that is, one on which numerous other service depend and one where change has significant ramifications for the rest of the hospital. **Why did UHL consider it possible to proceed without a full public consultation and will the committee ensure that this omission is rectified and recommend that full public consultation takes**

**place?”**

Giuliana Foster

"Why has UHL been planning to close level 3 intensive care at the Leicester General Hospital since at least 2015 and yet still not consulted the public?"

Ms E Brenda Worrall

"Given the recent ruling by The High Court (HHJ Jarman QC sitting as a High Court Judge) in quashing a decision by the Corby Clinical Commissioning Group over failure to undertake public consultation, is there a danger that the local NHS could find itself on the wrong side of the law if it proceeds to remove services as important as level 3 intensive care from Leicester General Hospital without full public consultation? A legal challenge will be costly in time, money and reputation. I therefore urge you to recommend full public consultation".

Ms Warrington

"Why is the NHS undertaking to consult the public on 'our plans for acute reconfiguration' (Next Steps to Better Care in Leicester, Leicestershire and Rutland, August 2018 p40) but is not consulting the public on the reconfiguration of intensive care and other services such as kidney services now?"

Mr A Ross

"Although the scrutiny committee does not have the right to impose its views on the local NHS, will it state its desire to see a full public consultation take place in relation to the closure of level 3 intensive care and the consequent downgrading of the Leicester General Hospital?"

The Chair also referred Members to the questions relating to this issue, that had been brought to the meeting of the Leicester City Council Health and Wellbeing Scrutiny Commission on 23 August 2018. These were circulated for reference. The Chair thanked the members of the public for their questions and invited representatives of University Hospital Leicester (UHL) to respond to the issues raised.

Mark Wightman, Director of Strategy and Communications UHL, explained that with regards to the consultation, their response and the clinical risk remained the same as it did in 2015.

The Chair explained that following the article in the Mercury in March 2018, members of the public had understandably interpreted the move of the ICU as closure of the Leicester General Hospital by stealth. Whilst she did not believe that this was the intention of UHL, she sympathised with the public's concern of this as the conversation had not been held in the public domain since 2015 and time had moved on since then. There was now the question of whether an argument of urgency can still be applied three and a half years later. Given this,

there needs to be a conversation about what the current situation is and if the legal position would require UHL to go out to consult.

Andrew Furlong, Medical Director, UHL explained that there were three Intensive Care Units in Leicester providing level 3 and level 2 services and the pressures were such that 2014 it was considered that it was no longer possible to sustain safe level 3 services at the LGH. The training status of the unit had been downgraded at LGH because it wasn't seeing the complexity of work going through and trainees could not get the training they required to become intensive care clinicians. A number of consultants were due to retire and multiple efforts to recruit were unsuccessful because of the loss of training status and because it was a very poor environment to work in due to the facilities. There were also considerable problems in maintaining ICU nursing levels. These pressures meant that it was not safe to keep the services at LGH open long term. Numerous reviews had been carried out to say that the services were not sustainable.

The move of the level 3 ICU from LGH would affect some services such as renal transplant surgery but there would still be a level 2 ICU and High Dependency Unit, and number of other services such as orthopaedics would remain at the LGH. The move of the ICU did not mean that all services would move from the LGH as a formality.

John Adler, Chief Executive, UHL stated that they would have liked to have proceeded quicker but were prevented by a lack of capital funding. There was also a need to move the Congenital Heart Unit from the Glenfield to the LRI by 2020 and they had to ensure there was sufficient capital for that work. Members heard that the money for the ICU had been allocated in 2017. The outline business case had been recently approved and the final business case was due to be approved soon. The Chief Executive stated that if the UHL went out to consultation, the delay could impact on the funding as it had not yet been received. He added that the UHL had been open about the strategy and the ultimate plan to move acute services from LGH, which was part of 'Better Care Together' and that would be out for consultation when the funding position was clear.

Rakesh Vaja, consultant in ICU added that the critical care services in Leicester had been chronically underfunded, but he believed that the UHL were as close as they had ever been to getting that investment. The services were isolated across the three sites and it was not possible to access the expertise immediately when the patient needed it when clinicians were on different sites.

The Chair stated that she had met with senior management at the NHS. She believed they felt they had fulfilled their duty to consult by going to the various scrutiny meetings, including scrutiny at Leicester City and Leicestershire County Council in 2015 and more recently at Rutland County Council in April 2018. The Chair agreed that the plans for the consolidation of Level 3 ICUs had been in the public domain and that now the funding was available there was a strong argument for wanting to make that investment. However, she expressed disappointment that the report did not address the matter of urgency

as fully as she had hoped.

The Chair stated that despite the urgency of the move, the UHL had managed to mitigate the situation with the ICU at the LGH for the last three years and although far from ideal, a public consultation would only require them to continue to manage the situation for a further three months.

The Chair expressed some disappointment that when the UHL took the issue to the Adults and Health Scrutiny Panel at Rutland County Council in April, they misrepresented the views of the Leicester City Council (LCC) Health and Wellbeing Scrutiny Commission where the issue was considered in March 2015. Rutland County Council had been informed that the Leicester City Commission had agreed that for safety and welfare reasons, the consultation was unwarranted, where in fact they had simply noted the position. This concern was also reiterated by other Members, including Members from Rutland.

Dr Feltham CC stated that his view had not changed since 2015 and now that it was known that the funding would be received, the same level of urgency still applied. The UHL had managed extremely well in keeping the Level 3 ICU operational across the three sites. Dr Feltham added that it was only Level 3 that would be moving from the LGH and he referred to the logistical problems in getting all the clinical specialists together across the three sites. He was willing to listen to the arguments but he was of the view that the reasons for urgency still applied.

Members raised concerns about the process and the lack of consultation and clarification of the legal position was sought. Views were expressed that this was not so much about clinical need, but the process and that people had the right to have their say on the issue. Concerns were also expressed that there was a lack of transparency regarding Better Care Together and the future of the LGH. Comments were also made that there appeared to be a breakdown of trust and that the public were being denied their say in the way the NHS was run.

Concerns were expressed about the impact the removal of the Level 3 ICU would have on the LGH, and a comment was made that it was disingenuous to argue that it would not affect the future of that hospital.

The Director of Strategy and Communications explained that when the issue was discussed in April at Rutland, the UHL had explained that they had been told they could not hold a consultation until the capital investment was confirmed. In relation to urgency, they had been working extremely hard to keep the ICU open, and the level of risk had not diminished. In relation to the consultation, a basic premise was that consultations took place where there were options, but on this issue, it was considered that there were no options. The Chair responded that the City Council ran a large number of consultations with limited options, the point being to allow people to express their opinions and concerns.

In response to a question about the cost of holding a consultation, the Director responded that he did not know but he believed that the cost should not be a factor in whether a consultation took place.

The Chair asked Members, in view of the time factor, with some Members yet to speak and with four items of business on the agenda, another meeting should be arranged to continue the discussion. The Chair recommended that the Committee note the report and note that the UHL had put forward a clinical case, but they were not in a position to make any suggestions as to whether or not the UHL should consult; and that a further meeting would be reconvened to continue the debate. Upon being put to the vote, this was agreed.

The Healthwatch Rutland representative wished it to be noted that she had not had the opportunity to speak during the debate and the Chair assured her that she would have the opportunity at the reconvened meeting.

AGREED:

- 1) that the Leicestershire, Leicester and Rutland Joint Health Scrutiny Committee note the report and note that the University Hospitals Leicester had put forward a clinical case, but they are not in a position to make any suggestions as to whether or not the UHL should consult; and
- 2) that the further meeting be reconvened to continue the debate.