

c/o Rutland Community Hub
Lands' End Way
Oakham, Rutland
LE15 6RB

Office: 01572 720381

9 November 2018

TO: Chair and Members of RCC Adults and Health Scrutiny Committee

Dear Councillor Conde,

Healthwatch Rutland Continuing Concerns Regarding UHL and ICU

Healthwatch Rutland continues to follow closely the University Hospitals of Leicester's (UHL) plans to reconfigure the top-level ICU beds and associated dependent services, away from Leicester General Hospital (LGH); timeline of recent events attached. These Level 3 ICU beds accommodate the sickest patients, and it is proposed that all bar 1 bed are transferred to the Leicester Royal Infirmary and the Glenfield Hospital, whilst retaining a reduced Level 2 service only at LGH.

The LLR Joint Health Overview and Scrutiny Committee recommended on 28 September that the CCGs pause the plans and undertake a full public consultation.

The CCG's response to the Joint HOSC's recommendations, received at the Commissioning Collaborative Board on 18 Oct 2018, was to press ahead with the ICU reconfiguration plans on clinical and safety grounds. In their public statement of 18 Oct 2018 the CCGs suggested that in recognition of concerns raised by the Joint HOSC and the public, the already planned Better Care Together (BCT) engagement events will be broadened to include discussion on the ICU plans.

The HWR Board is disappointed with the CCGs decision to press ahead without public consultation against the recommendations of the Joint HOSC, and believes that the CCGs are ignoring due legal process by not consulting on a major service change.

The Joint HOSC had offered the opportunity for UHL and the CCGs to regain public trust by pausing and listening to people's concerns and suggestions; however public trust in our local NHS has been further eroded at what is a pivotal point in the change management process.

Many of the clinical and safety arguments for the ICU reconfiguration are broadly recognised by all sides of the debate, including by Healthwatch Rutland. Notwithstanding the CCGs' determination to forego due process, there is still much room for public comment as the appendices to the Full Business Case were not available until the day of the LLR Joint HOSC meeting. For example, Appendix 22, written by a Nephrology consultant and a Renal Transplant consultant, outlines all the clinical risks of separating the two services with minimal attention to possible mitigations. These clinical risks arise from splitting Renal Transplant and Nephrology services across two sites with no definitive date for them to be co-located once again. The consultants recommend the maximum

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time Nephrology and Transplant should be operating from two sites should be 2-6 months. The Nephrology move to join Transplant is considered by UHL as a 'separate business case' - about which there are no details in the public domain. When asked about this timeframe at the ELRCCG Governing Body meeting in July 2018, the Healthwatch Rutland board member present recalls the reply was 6 -12 months - much longer than requested by the clinicians. It seems that UHL's attempts to overcome the clinical risks in LGH ICU has shifted the clinical risks to Renal Transplant and Nephrology.

Healthwatch Rutland would therefore like to see the recommendations of the Joint HOSC upheld and for Rutland County Council to refer the matter to the Secretary of State for Health. The Department of Health and Social Care have indicated that 'should the scrutiny committee refer the matter to the Secretary of State for Health under the regulations, then the Department would of course be happy to look into it' (see letter in attachment 3).

We recognise that Rutland Adults and Health Scrutiny Committee must consider all aspects of the debate before making its own response to the CCGs' decision to continue with the plans and before referring the CCGs' decision to the Secretary of State for Health. However, we would urge you to consider referring this issue with due diligence in the public interest of the people of Rutland.

Healthwatch Rutland will continue to promote widely the BCT Engagement events and particularly the 19th November event in Oakham. We feel that it is necessary to let the public voice their own views and ask their own questions about the ICU and BCT plans directly of the NHS managers. The outcome of the event will provide further input to the Rutland Scrutiny Committee's deliberations and we will be happy to give our inputs to those deliberations as required. In addition we are keen to ensure that the CCGs are held to account on their promises for full consultation on the future service changes to Leicester General that would be effected once funding for the wider BCT "3 to 2" acute hospital plans is secured.

We bring this to your attention in advance of the November meeting of your Committee as we have been informed anecdotally, that there are strict time limits placed on Local Authorities for referrals to the Secretary of State for Health (although we are unable to confirm the substance of the suggestion).

Yours Sincerely,

PP



Professor William Pope

Chair, Healthwatch Rutland

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Copies to:

Rt Honourable Matt Hancock MP, Secretary of State for Health & Social Care
Simon Stevens, Chief Executive NHS England
Right Honourable Alan Duncan, MP
Cllr Elly Cutkelvin, Chair LLR Joint Health Overview & Scrutiny Committee
Karamjit Singh, Chair University Hospital of Leicester Trust
Dr. Ursula Montgomery, Chair ELRCCG
Prof. Azhar Farooqi, Chair Leicester City CCG
Prof. Mayur Lokhani, Chair West Leicestershire CCG

Attachments:

1. Timeline of events for reference
2. Nov 2017 letter from HWR Chair to Chair of ELRCCG
3. Nov 2018 Response from Department of Health and Social Care to HWR letter of October 2018

Attachment 1: Timeline of events

25 February 2015: UHL informed Leicestershire County Council Health Overview and Scrutiny Committee (HOSC) that the LGH level three intensive care service (ICS) was clinically unsustainable. The HOSC resolved that it was 'not in the interest of people of Leicestershire for it to insist on formal consultation'.

25 March 2015: UHL presented their plans to Leicester City HOSC who 'noted that the University Hospitals of Leicester NHS Trust (UHL) determined that it was necessary to proceed with the proposal without engaging in a full public engagement exercise, as this was in the best interests of patients'.

14 November 2017: Letter from Healthwatch Rutland (HWR) Chair to Dr Richard Palin, the Chair of East Leicestershire and Rutland Clinical Commissioning Group (ELRCCG). This letter (attached) warns that it is a CCG responsibility to ensure public consultation before a decision is made on movement of services and that it is not the responsibility of HOSCs to absolve Commissioners of care from their duty to carry out public consultation.

April 2018: UHL informed Rutland County Council of their plans to reconfigure ICS and associated services. (There were, at a joint Leicester, Leicestershire and Rutland Joint HOSC meeting on September 4th 2018, public accusations of misrepresentation of Leicester City HOSC in March 2015 and misleading Rutland County Council.)

10 July 2018: HWR Board member raised concerns at ELRCCG Governing Body Meeting that no public consultation had taken place in formulating the decision to remove all but 1 level 3 ICU beds from LGH. The Full Business Case was then approved by all 3 CCG Governing bodies.

14 August 2018 it was drawn to the attention of the ELRCCG at their monthly governing meeting that the HWR board member's comments about lack of public consultation at the July meeting had not been minuted. It was formally agreed to include these comments in the amended minutes.

4 September 2018. A discussion about the lack of public consultation was held at the joint HOSC meeting. The case was deferred to a later date.

31 August 14 Sept and 26 Sept 2018 requests were made for copies of all appendices to UHL's full business case.

11 Sept 2018. HWR tabled the following question for the ELR CCG governing body meeting: 'Healthwatch Rutland would like to know if the CCG are aware that the lack of public consultation about the Full Business Case for the relocation of the Leicester General Hospital Intensive Care Unit has now caused concerns such that it was referred to the LLR Joint HOSC last week for evaluation?' A written reply within 7 days was promised at the meeting.

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19 Sept 2018: The lack of response to the HWR question was then drawn to the attention of Tim Sacks, Chief Operating Officer ELRCCG, at the HWR Annual Meeting, who said he would pass on the concerns.

25 September 2018 the full business case appendices were finally received but there was inadequate time to read them prior to the meeting of the Joint HOSC.

26 Sept 2018: HWR Board wrote to the members of the Joint LLR Health Overview and Scrutiny Committee (HOSC) commending the committee members to recommend a pause in the building plans so that a full public consultation may take place.

28 Sept 2018: LLR Joint HOSC recommended that the CCGs pause their plans to reconfigure Intensive Care Units and offer full public consultation on the plans.

1 Oct 2018: HWR issued media statement fully supporting the Joint HOSCS recommendation that the CCGs pause the ICU plans and undertake full public consultation before proceeding.

1 Oct 2018: HWR wrote to Secretary of State for Health Matt Hancock seeking his support by encouraging UHL and CCGs to adopt the Joint HOSC's recommendations for pause and consultation. Copies were sent to CEO of UHL, Chair of ELRCCG, Local MP, Heads of NHSE & NHSI.

1 Nov 2018: Department of Health and Social Care responded to HWRs letter to the Secretary of State - see below.

Attachment 2: Nov 2017 letter from HWR Chair to Chair of ELRCCG



c/o Voluntary Action Rutland
Land's End Way
Oakham, Rutland LE15 6RB

Tuesday 14th November 2017

Dr Richard Palin
Chair, East Leicestershire and Rutland CCG
County Hall, Glenfield, Leicester
By email

Dear Richard

UHL Clinical Strategy (Phase 2)

This morning I felt we had made a lot of progress towards resolving the CCG governance issues which have been the source of public anxiety and loss of trust but, as I explained this morning, I had anxieties about the UHL paper to your Board today.

Ensuring adherence to due process has bedevilled our dealings for the past year over Settings of Care and it is not a saga anyone would want to repeat. It is not over yet but it is vital that new issues are got right. We had hoped that, as we move into the STP we can all work from the legal guidance that governs us all.

I was, therefore, extremely concerned at the suggestion that a combined Scrutiny Committee had "decided" that the ICU at LGH should transfer to Glenfield. Clearly that is not the case as the function of scrutiny is to scrutinise. I enclose the guidance on both the role of Scrutiny and HW in the scrutiny process. Its powers are to refer to the Secretary of State.

A CCG cannot transfer its decision making responsibility to the Joint Scrutiny Committee as suggested. I have now searched the Joint Scrutiny archives and have found no such discussion. I have, however, found a paper submitted by UHL to Leicester City Scrutiny Committee in March 2017 which was for information and not for a decision. Copy attached.

The UHL team asked ELRCCG today to agree the transfer of the ICU at LGH to GH. The papers did give the impression that a much larger decision was being requested but if, as Paul Traynor, suggests, they were only asking for the decision on ICU itself and not anything

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else which might prejudice STP consultation there is then a question of what public consultation has been carried out on this.

The legal guidance on consultation is voluminous and was reprised for STPs in September 2016. This included the four Lansley tests. I also find the guidance to CCGs from Mills and Reeve helpful which I also attach. The consultation process needs to be carried out before a decision is made by your body (and the other CCGs).

We are not unsympathetic to the straits that UHL find themselves in and, as I hinted at the meeting, there are other mechanisms which can be used. Early on David Henson and I discussed several times whether the emergency temporary closure system should be used to sort out ITU while not prejudicing formal consultation on the closure of LGH. In the end we decided that it was dragging on so long it could no longer be called an *emergency*.

We would be reassured for the future if formal legal process was used and would be most grateful for your assurance that legal guidance and due process will be used in this case. The proposed change of use of LGH and all its ramifications are of course a central plank of the STP.

I will copy this to John Adler.

Yours sincerely



Jennifer Fenelon
Chair ,Healthwatch Rutland

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Attachment 3: Nov 2018 Response from Department of Health and Social Care to HWR
letter of October 2018



Department
of Health &
Social Care

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Our ref: TO-1151276

Professor William Pope
Chair, Healthwatch Rutland
Rutland Community Hub
Lands End Way
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01 NOV 2018

Dear Professor Pope,

Thank you for your correspondence of 1 October to Matt Hancock on behalf of Healthwatch Rutland about the reconfiguration of ICU beds in Leicester, Leicestershire and Rutland. I have been asked to reply.

The Department appreciates the public's concerns about consultation and engagement issues regarding this.

As you know, the proper place for discussing and deciding these issues is at the local level, and the Department is pleased that stakeholders are actively engaged in debating them with the NHS.

Should the scrutiny committee refer the matter to the Secretary of State for Health under the regulations, then the Department would of course be happy to look into it. Unless or until that happens, the Department is unable to comment on the process.

Yours sincerely,

Jane Spencer
Ministerial Correspondence and Public Enquiries