

# Havering Healthwatch Limited

## Relevant Decision Making Policy

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## Appendix 1

### Statutory Background

#### 1. POLICY

1.1 the purpose of this policy is to set out how Havering Healthwatch Limited (operating as Healthwatch Havering (HWH)) (referred to in this policy as “the Company”) makes “relevant decisions”. This legal requirement is mandatory as the Company is a “body corporate’ carrying out statutory functions” <sup>1</sup>. This policy only applies to the relevant decisions that the Company undertakes, and does not apply to how the Company makes general decisions which are covered in the related policies and procedures, for volunteer members these are also covered within the Handbook.

#### 2. SCOPE

2.1 This policy and procedure applies to all employees, volunteer/members and the Directors of the Company.

#### 3. POLICY BACKGROUND

3.1 the Company is required to publish how it makes “relevant decisions” as set out in Regulation 40 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 <sup>1</sup>. This provision is summarised in Appendix A. This document therefore sets out how the Company will make relevant decisions and which areas this will cover.

#### 4. PROCEDURES FOR MAKING RELEVANT DECISIONS AND LAY PERSON INVOLVEMENT.

##### 4.1 Relevant decisions & lay involvement.

The Company’s Management Board (hereinafter “the Board”) comprises the Directors and the members of the Company. The Board is responsible for making the majority of the relevant decisions (Section 5). The Board may delegate relevant decision-making to the Company Secretary/Director and/or the Chairman/Director of the Company (the procedure for this is set out in Section 5). Any amendments to this policy and the procedures governing the making of relevant decisions will require a simple majority of Board members present at the meeting voting in favour.

The amended policy will be published and made available to the public as soon as is practical.

#### **4.2 Relevant decisions & voting.**

Board meetings at which are discussed “relevant decisions” and Section 221 activities will be held in public. Notice of such meetings and the agenda will be made available to the public at least 3 days before the scheduled meeting by publication on the Company’s website.

When making a relevant decision, the Board must follow the meeting and voting procedures. For making relevant decisions, meetings of the Board must be quorate (more than 5 members of the board present or by proxy) and the meeting must be chaired by the Chairman/Director or their nominated proxy. Resolutions concerning relevant decisions will be considered as passed by a simple majority of the Board present and voting in favour.

#### **4.3 Publication of relevant decision.**

The minutes of the Board meeting where a relevant decision has been agreed will include the reason for the decision. The approved minutes of the Board meetings will be made publicly available and published on the Company’s website.

Where a relevant decision is made under delegated authority, this being either the Directors acting collectively or Chairman/Director or the Company Secretary/Director acting in person, the Company will, within reasonable time after a relevant decision has been made, publish a written statement of that decision and the reasons for that decision on the Company’s website.

### **5. THE RELEVANT DECISIONS**

#### **5.1 Section 221 activities.**

The Board will be responsible for agreeing the overall decisions regarding how the Company undertakes Section 221 activities <sup>2</sup> and allocating resources to meet these activities. The Board will delegate operational decision making on how these activities are delivered to the Company Secretary/Director. Section 221 activities include:

- Promoting and supporting the involvement of local people in the commissioning, the provision and scrutiny of local care services.
- Enabling local people to monitor the standard of provision of local care services and whether and how local care services could and ought to be improvement.

- Obtaining the views of local people regarding their needs for, and experiences of, local care services and importantly to make these views known.
- Making reports and recommendations about how local care services could or ought to be improved. these should be directed to commissioners and providers of care services, and people responsible for managing or scrutinising local care services and shared with Healthwatch England.

## **5.2 Health and care services covered by the Company**

The Company will undertake Section 221 activities <sup>2</sup> which cover the following organisations/bodies which provide or commission publicly-funded health or care services to the residents of the London Borough of Havering:

- Relevant NHS Trusts including, but not limited to:
  - Barking, Havering and Redbridge University Hospital Trust
  - NELFT (North East London Foundation Trust)
- a person providing primary medical services (e.g. GPs);
- a person providing primary dental services (i.e. dentists);
- a person providing primary ophthalmic services (i.e. opticians);
- a person providing pharmaceutical services (e.g. community pharmacists);
- Bodies or organisations which are contracted by Local Authorities or the NHS to provide health or care services (e.g. adult social care homes and day-care centres);
- Bodies or organisations which commission (pay for) NHS health services including the NHS BHR Clinical Commissioning Group, Havering Clinical Commissioning Group, locally federated CCG bodies, NHS England and Public Health England;
- Bodies or organisations which commission (pay for) publicly funded care services for either adults or children (The London Borough of Havering);

## **5.3 Decisions on the Company's budget**

The Board is responsible for approving the overall budget which is allocated to carrying out its Section 221 activities <sup>2</sup>. The Board has delegated authority to the Company Secretary/Director on managing the budget on a day to day basis in order that the Company can effectively discharge its duties.

## **5.4 Decisions to make recommendations/reports or request information**

The Board has delegated to the Company Secretary and the Community Support Officer the authority to request information from the organisations/bodies set out in section 5.2 of this policy.

The Company has the right to make recommendations to the relevant bodies set out in section 5.2. and they are bound to pay “due regard” to those recommendations and to provide a written response within 20 working days.

The Board has delegated to the Company Secretary/Director responsibility for approving the substantive written reports and recommendations made to any of the relevant bodies. The Board retains general oversight of these activities but has delegated to the Company Secretary/Director authority to monitor implementation of any of the accepted recommendations.

The Company Secretary/Director will inform the Board if any relevant bodies fail to respond to reports/recommendations within the agreed timeframe (or such reasonable extension as may be agreed in the circumstances). The Board will decide whether to escalate the recommendation/report to the Healthwatch England committee of the CQC or to other relevant regulators as appropriate (see **section 5.6**).

Any relevant bodies failing to respond to the Company recommendations will be recorded by the Company Secretary/Director and reported in the Company Annual Report.

### **5.5. Enter and View Decisions**

The Company will conduct Enter and View activities as set out in the Company’s “Enter and View Policy and Procedure”.

The Company will undertake two types of Enter and View (E&V) activities: “announced E&V activity” and “unannounced E&V activity”. These two E&V activities do not differ in terms of the decision-making process.

An “announced E&V visit” is defined as a planned E&V visit which occurs at a set time and covers predefined premises/provider, which have been agreed by the Enter and View Panel on behalf of the Board.

A “routine unannounced E&V visit” is defined as a planned E&V visit which occurs in response to a high-level concern which necessitates an E&V visit to predefined premises/provider, which have been agreed by the Enter and View Panel on behalf of the Board, without notice being given to that provider.

An “urgent unannounced E&V visit” is defined as an unplanned E&V visit which occurs in response to an immediate, high-level concern which necessitates an E&V visit to specific premises/provider, in circumstances that preclude prior agreement by the Enter and View Panel on behalf of the Board, without notice being given to that provider.

The Board has delegated responsibility for approving all E&V visits (other than urgent unannounced visits) to the Enter and View Panel. The Panel will prepare the E&V programme taking into account:

- The rationale and the evidence base for undertaking the scheduled E&V activity.
- The premises or types of providers that will be covered by the proposed E&V activity.
- Recommendations with regards to whether the scheduled E&V activities are unannounced or announced (or conducted jointly with other bodies).
- The proposed dates for carrying out the E&V activity.
- The proposed timeframe for completion of E&V reports and plans for their publication.

The Board delegates to the Company Secretary/Direct authority to approve an “urgent unannounced E&V visit” with the following provisions:

- Where it is practical, the Company Secretary/Director will notify the Chairman (or in her absence, the other board director) of the intention to conduct an “urgent unannounced E&V” visit and the reason for this judgement. The Chairman will also be informed of the nature of the E&V activity and the reasons why this is necessary. The Company Secretary/Director will consider whether a Safeguarding alert needs to be given to the relevant Havering Safeguarding staff. Where the concern does not amount to a safeguarding issue but an immediate risk is posed to an individual, then the Company Secretary/Director will inform the relevant Care Quality Commission Compliance Manager, who can determine if there is a breach of regulations
- As soon as is practical following the completion of an “urgent unannounced E&V activity”, the Company Secretary/Director will prepare a short report outlining the reason for conducting the E&V, the premises and date where this activity was conducted. The report will be submitted to the Panel for information purposes only.
- The final report on the outcome of the “urgent unannounced E&V activity” will require approval by the Board prior to publication.

## **5.6 Referring matters to other bodies**

There will be times when issues/concerns which are brought to the attention of the Company will need consideration for further action. In these situations, the Board will need to be aware of the various options that are available and will need to decide how best to proceed.

Options available to the Company to refer matters:

- Health and/or social care matters which give rise to concern to Havering Council's Children's, Health or Individuals Overview and Scrutiny Sub-Committees as appropriate;
- To the appropriate regulators (Care Quality Commission, Ofsted, professional body regulators such as the Nursing and Midwifery Council, the General Medical Council, the General Dental Council etc);
- To Healthwatch England.
- To Havering's Health and Wellbeing Board and/or Overview & Scrutiny Board.

In many cases, the nature of the issue will determine where a matter should be referred. For example, issues/concerns around provider quality and patient safety would be best referred to the Care Quality Commission as recommended by Healthwatch England. The Board is responsible for approving which issues should be referred to the relevant Overview & Scrutiny Sub-Committee and/or the Health and Wellbeing Board; the Care Quality Commission; professional body regulators; or Healthwatch England. In this regard, the Board will be guided, where appropriate, by recommendations from the Company Secretary/Director, the Community Support Officer and/or the Enter and View Panel.

The Board has delegated to the Chairman/Director and the Company Secretary/Director authority to refer urgent matters to the relevant bodies or regulators, including issues/concerns which are brought to the attention of the Company and which require immediate or rapid referral. However, the Chairman/Director and the Company Secretary/Director will, at the earliest opportunity, notify the Board of this action.

## **5.7 Decisions about subcontracting the Company functions**

All decisions regarding subcontracting of the Company's functions will be made by the Board. Any such proposals and decisions will be discussed in a public meeting of the Board and recorded in the minutes which will be made publicly available.

## **6. PROCEDURE FOR DEALING WITH BREACHES OF THE REVELANT DECISION MAKING POLICY.**

### **6.1 Notification of a breach of the Relevant Decision Making policy.**

Any individual or organisations which are affected by the functions of the Company have the right to notify the Company of a potential breach of this policy.

### **6.2 Investigation**

In the first instance, notification of a potential breach of the Relevant Decision Making Policy should be made in writing (clearly setting out why a breach of the Relevant Decision Making Policy has occurred) to the Company Secretary/Director.

The Company Secretary/Director of the Company will investigate the potential breach of the Policy and will endeavour to resolve it in a satisfactory manner.

### **6.3 Investigation by the Chairman or Investigating Panel**

If the Company Secretary/Director's investigation is not concluded to the satisfaction of all parties, the potential breach of the Relevant Decision Making Policy will be brought to the attention of the Chairman/Director of the Company. the Chairman/Director of the Company, at her discretion, may convene an Investigating Panel to examine the potential breach of the Relevant Decision Making Policy. The Investigating Panel will consist of the Chairman/Director, Company Secretary/Director and at least two the Company's volunteer members.

The Investigating Panel will investigate the potential breach of the Relevant Decision Making Policy and publish a report on the outcomes of their investigations which may include any recommendations to change the way the Company makes relevant decisions.

### **6.4 Referral of breach to the local authority**

The Company will refer any case to Havering Council for further investigation if the outcome of the Chairman/Director's or Investigation Panel's report does not meet the expectations of all parties involved.

At any point during the above proceedings, if the issue warrants it, the Chairman of the Company may refer the matter directly to Havering Council for further investigation.

### **6.5 Referral to the Local Government Ombudsman**

The complainant has the right to ask the independent Local Government Ombudsman to review how Havering Council has handled the investigation of the potential breach of the Company's Relevant Decision Making Policy by contacting:

The Local Government Ombudsman  
PO Box 4771, Coventry CV4 0EH  
Tel.: 0300 061 0614 (open 8.30am - 5.00pm Monday to Friday)  
<http://www.lgo.org.uk>

## Appendix 1 Statutory Background.

Summary of Provision 40 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012<sup>1</sup>.

- (1) A local Healthwatch, before making any relevant decisions, have and publish the required procedures;
- (2) if any amendments are made to a required procedure, as soon as practicable publish the required procedure as amended;
- (3) comply with the required procedures as may be amended from time to time;
- (4) within a reasonable time after a relevant decision has been made, publish a written statement of that decision and the reasons for that decision;

For the purposes of this regulation, a “relevant decision” is a decision as to:

- (1) how to undertake relevant section 221 activities<sup>2</sup>;
- (2) which health and care services you are looking to cover with your activities;
- (3) the amounts you will spend on your activities;
- (4) whether to request information;
- (5) whether to make a report or a recommendation;
- (6) which premises to enter and view and when those premises are to be visited;
- (7) whether to refer a matter to an overview and scrutiny committee;
- (8) whether to report a matter concerning your activities to another person (and to the Healthwatch England committee of the Care Quality Commission);
- (9) any decisions about subcontracting;

For the purposes of this regulation “the required procedures” means:

- (1) a procedure for making relevant decisions, including provisions as to who may make such decisions;
- (2) a procedure for involving lay persons or volunteers in such decisions; and
- (3) a procedure for dealing with breaches of any procedure referred to in sub-paragraph (a) or (b). This must include provision setting out the circumstances in which a breach must be referred by local Healthwatch to the local Authority.

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<sup>1</sup> the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012. <http://www.legislation.gov.uk/uksi/2012/3094/contents/made>

<sup>2</sup> Section 221 activities refer to section 221 of the Local Government and Public Involvement in Health Act 2007 as amended by the Health & Social Care Act 2012.