

Policy and Procedures for Enter and View visits to health and social care premises

“Enter and View” is a power conferred by law on local Healthwatch organisations that enables them to authorise individuals to enter and view health and social care premises. This Policy and Procedures document sets out how Healthwatch Havering intends to exercise its powers under the legislation.

The Policy and Procedures incorporate a Code of Conduct for authorised representatives and Information for Service Providers, Proprietors, Managers and Staff of premises at which health or social care services are provided.

The list of persons authorised to carry out enter and view visits is available on the Healthwatch Havering website.

Premises that may be entered

Authorised representatives of Healthwatch have the right to enter and view all services provided in premises owned or controlled by:

1. NHS Trusts
2. NHS Foundation Trusts
3. Local Authorities
4. A person providing medical services (i.e. general practitioners)
5. A person providing primary dental services
6. A person providing primary ophthalmic services
7. A person providing pharmaceutical services
8. Independent providers that deliver (or assist in delivering) services commissioned by and under contract to local authorities, NHS Trusts, CCGs.

The legal powers to Enter and View

The legislation¹ states that anyone who commissions or provides publicly-funded health and social care services has a duty to help Healthwatch to involve local people in the commissioning, provision and scrutiny of those services by allowing Healthwatch to:

Obtain the views of the following people about their experiences of, and perceived need for, local services:

- Residents of care homes
- Patients of wards and surgeries
- Users of other health and social care facilities
- Staff
- Carers
- Managers and proprietors

and

Make written recommendations on the standard of provision, including whether and how services could or ought to be improved.

Providers of health and social care services are required to:

1. Allow the authorised representatives of Healthwatch to enter and view any services or premises that are providing publicly-funded care (unless there are specified grounds for denying entry on a given occasion: see below) and
2. Provide information about any publicly-funded services or premises when requested by Healthwatch

Local Authorities, NHS Trusts, and Clinical Commissioning Groups must ensure that all new contracts with independent providers of health and social care services permit the authorised representatives of Healthwatch to enter and view any premises that those independent providers own or control.

The legislation also requires that the Policy and Procedures for the exercise of the Enter & View powers be published.

Circumstances in which the right to enter and view does not apply

Authorised representatives of Healthwatch may not enter and view services and premises if any of the following circumstances apply:

¹ **Local Government and Public Involvement in Health Act, 2007, as amended: section 225, and The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013**

- The services or premises are providing social care to children
- The presence of the representatives would compromise the effective provision of a service or the privacy or dignity of any person
- The premises where the care is being provided is a person's own home (Note: this does not mean that an authorised representative cannot enter if invited to do so by that person – it just means that they have no automatic right to enter. This should only be done in extreme circumstances and the representative should never enter a person's home unaccompanied)
- The premises (or parts of the premises) are used solely as accommodation for staff
- The premises are the non-communal parts of a care home
- The care is being provided in a penal institution or police station
- The presence of the representatives would compromise service delivery (e.g. if a major incident resulting in significant numbers of casualties occurred during a visit to a hospital accident and emergency department)
- Health and social care services are not provided at the premises (e.g. an office) or are not being provided at the time of the visit (e.g., when the facilities or premises are closed)
- The services are provided solely to people paying in full for their own care
- The premises are owned by one independent provider but controlled by another (in this case the provider who owns the premises is exempt).

Circumstances in which a visit can be refused or terminated

The provider's duty to allow an authorised representative to enter and view may be disregarded (i.e. the provider may deny entry) if in the opinion of the provider:

- The authorised representatives are not acting reasonably or are acting in such a way as to compromise the effective provision of a service or the privacy or dignity of any person (e.g. being present when someone is being washed or dressed, getting in the way of a consultation, or holding up the serving of a meal or the administration of a medicine)
- The authorised representatives are not acting proportionately (e.g. by making repeated or regular unannounced visits, or by arriving in a large group at a small facility)
- The representatives do not provide evidence that they are authorised in accordance with Regulation 12 of The Local Authorities (Public Health

Functions and Entry to Premises by Local Healthwatch Representatives)
Regulations 2013.

Authorised representatives – selection and appointment

The power to enter and view premises that provide publicly-funded health and social care services is exercised by individuals appointed to be authorised representatives.

Healthwatch Havering accepts that it is essential that its authorised representatives are aware of the sensitivities of their role and that they are committed to working constructively in partnership with regulatory and commissioning agencies and service providers.

Accordingly, Healthwatch aims to recruit people who have the ability to plan, visit and write reports and to have a diverse group of authorised representatives who fulfil these requirements collectively. Where possible,

Healthwatch Havering will deploy Enter and View Volunteers who have skills or backgrounds in the field in which the premises they are entering operates; this requires the appointment of Enter and View volunteers from a broad range of backgrounds.

Anyone who wishes to become an authorised representative must follow the application process as follows:

1. Complete a formal application form in response to the person specification requirements and submit the completed form to Healthwatch Havering, with details of two referees (references may be taken up prior to interview with the applicant's permission)
2. Meet Directors of Healthwatch Havering at interview, who will assess their suitability for the position
3. If accepted for appointment, undergo a DBS check in line with Section 113A of the Police Act 1997 and then undergo all relevant training.

All authorised representatives accept the following conditions of appointment:

- That they may be named in documents published on the Healthwatch Havering website and in other publicly-available documents and publications (Healthwatch Havering accepts vicarious liability for, and will indemnify authorised representatives against, claims arising out of enter and view visits and subsequent reports, except where it can be shown that the activity was undertaken with malicious intent or contrary to this Policy and Procedures)
- That any conflict of interest, actual or potential, will be declared as soon as the authorised representative becomes aware of it and that they will withdraw from a visit if appropriate

- That they will abide by the Code of Conduct for visits and any procedures and practices outlined in the training programme - failure to do so may render null and void the public liability and indemnity insurance provided for them
- If they are felt to have breached the code of conduct, either by their peer observer or by a service provider, they must fully co-operate with any investigation
- They must undergo any refresher training or amended training as required

The initial training programme for all authorised representatives will cover:

- Enter and View - role of the authorised representative
- Safeguarding vulnerable adults (POVA)
- Deprivation of liberties
- Safeguarding children
- Equal opportunities and anti-oppressive practice
- Communications and report writing skills

Authorised representatives are also required to have full up to date knowledge of Healthwatch Havering's Governance Framework and its related policies, protocols and procedures.

Normally, at least three authorised representatives will be assigned to each visit. Authorised representatives who are related to each other (either by kinship or marriage) or who are civil partners may undertake visits together.

Conflicts of interest

In order to avoid the possibility arising of a conflict of interest, authorised representatives who are aware that they are related to, or have a close friendship with, a member of the management or staff of an establishment that they are to visit as an authorised representative must declare that fact to the E&V Panel and consider whether the relationship or friendship should disqualify them for participation in the visit. The E&V Panel may agree to a dispensation to enable the individual to participate in a particular visit (the making of any dispensation being reported subsequently to the Management Board).

Where the authorised representative is unaware of the association of a relative or friend with an establishment until the visit is underway, that representative must consider whether the circumstances are such as to warrant their withdrawal from the visit and declare the circumstances as soon as possible to the Chairman of the E&V Panel. Where this arises, the other members of the visiting team of authorised

representatives must decide whether to continue with the visit or withdraw, and explain the circumstances to the manager of the premises being visited.

Exercising the right to enter and view: practical arrangements

Enter and view visits will be determined as a component of the agreed work plan priorities for Healthwatch Havering, with the need for each enter and view being assessed prior to a decision to go ahead with a visit.

The programme of visits, and the arrangements for each specific visit, will be determined by the Enter & View Programme Panel (E&V Panel).

A decision to enter and view a service will be made only where it is considered that the visit will add value to the information already available about the service other sources, including CQC reports.

Visits will not be arranged as a means of investigating individual complaints about particular services or premises (as such complaints are referred to and dealt with by other agencies) but in order to promote Healthwatch's agreed work plan or to obtain ad hoc evidence to support a specific work stream.

Announced visits will be documented as part of the current work plan:

- The service provider will be notified of the intention to carry out a visit at least 10 working days before the intended date of the visit, giving details of the date, time length of visit, specific service/premises areas to be entered and viewed, and the names of the authorised representatives attending. It will identify any practical arrangements e.g. if a disabled parking space or other reasonable adjustments are required to facilitate the visit. The reasons for and focus of the visit will be outlined in the letter
- The service provider will be asked to ensure that a member of the establishment's management team is available to meet the authorised representatives (who may be accompanied by a member of the Healthwatch team) at the beginning of the visit, so that they may explain the purpose of the visit and seek preliminary information to facilitate the purpose and intention of the visit. The service provider will also be asked to ensure that the same person is available at the end of the visit to receive feedback from the authorised representatives.

Notice of announced visits will be given by letter sent by "signed for" post at least 10 working days before the visit is to take place. Included with the letter will be a poster for display on the premises announcing the intended visit.

Unannounced visits may be authorised by, or on behalf of, the Management Board if it can be demonstrated that they are proportionate and reasonable. If not part of the current Healthwatch work plan, the rationale for undertaking an unannounced visit will be documented, along with the reason for not addressing the situation in another way as unannounced visits should only take place if no other approach could produce the information Healthwatch is seeking.

Unannounced visits will only be considered in response to a concern drawn to the attention of Healthwatch by a regulatory or commissioning agency or a service user (or user's relative) and when sufficient and robust evidence exists of a need for such a visit (such as reports of dirty premises; following publication of statistics showing high infection rates, or when requests are formally made by a regulatory or commissioning agency to assist it by carrying out "spot checks" to review aspects of service delivery).

Upon arrival at the service or premises, the authorised representatives will:

- Explain the reason for the unannounced visit to the duty manager, and
- Hand over a letter setting out the reason for the unannounced visit, and what will happen during and after the visit.

In accordance with the grounds for denying entry for visits above, the duty manager on behalf of the service provider has the right to decide whether the request to carry out an unannounced visit is proportionate and reasonable before allowing the authorised representatives to enter the premises.

If access is denied, the authorised representatives will ask the duty manager to explain why and, if the reason is because the visit is on day which is inconvenient or not suitable, offer an alternative date and time.

If the authorised representatives are unreasonably denied access, the facts must be reported forthwith to the Chairman of the E&V Panel who will consider whether the circumstances require formal report to the relevant regulatory or commissioning agency/ies and/or the Safeguarding Team.

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Preparation for a visit

Before visiting any health or social care services or premises the authorised representatives must:

- Ensure that they have been briefed about the aim and desired outcomes of the visit (either by general discussion through the E&V Panel, or specifically)

- Endeavour to find out if any other national or local agencies (e.g. the Care Quality Commission, neighbouring Healthwatch) are planning their own visits at roughly the same time so that the visits can be co-ordinated
- Agree how the objectives of the visit will be achieved (e.g. by talking to staff, service users, or patients – with their agreement – including meeting with the user forum (where one exists); observing the general interaction between staff, users and patients; noting environmental aspects of the care setting)

If, during the course of the visit, an authorised representative witnesses (or is informed of) anything that they consider may breach the standards of safeguarding of vulnerable adults or children or which jeopardises any other aspect of service user safety or care, this must be brought to the notice of the senior member of staff on duty as soon as reasonably practicable.

On leaving the premises this must be reported forthwith to the Chairman of the E&V Panel who will consider whether the circumstances require formal report to the relevant regulatory or commissioning agency/ies and/or the Safeguarding Team.

Conclusion of visit

At the conclusion of the visit, the authorised representatives will meet informally with a member of the establishment's management team to give general feedback, to comment on their findings and to raise any issues of concern that they have noted.

Post-visit report and other action

Following every visit, Healthwatch will prepare a report outlining its findings and, if applicable, offer recommendations for change. In addition to making recommendations to the service provider, Healthwatch may make recommendations to the appropriate regulatory or commissioning agency/ies.

The authorised representatives will make a written record of the visit, outlining the scope and progress of the visit, the gist of conversations with management, staff, residents or patients and any residents' or patients' family members, friends or carers seen in the course of the visit, their findings and any recommendations for action as a result of the authorised representatives observations during the course of the visit. They will also comment on examples of good and bad practice (if any) observed during the course of the visit.

The written record will be circulated to the authorised representatives who participated in the visit within 10 working days and agreed by them. The Chairman of the E&V Panel will then agree the report on behalf of the Management Board.

Once agreed by the visiting authorised representatives and the Chairman of the E&V Panel, Healthwatch will forward a final draft report to the service provider with an invitation to highlight any factual inaccuracies and to respond to its comments or recommendations within 10 working days of the visit. The service provider may be invited to meet the authorised representatives and/or a Director of Healthwatch Havering to discuss the recommendations (if any) and to explain the action it intends to take to implement them (or any reasons why not).

Healthwatch Havering aims to publish the final report within eight weeks of the visit. The report will be sent to:

- The service provider responsible for the premises visited (either directly or via the premises manager)
- The service commissioner
- The contract manager
- The local Overview and Scrutiny Committee (where appropriate)
- The service regulators

In addition, a copy of the report will be placed on the Healthwatch Havering website.

Quality assurance and monitoring

Of the authorised representatives assigned to each visit, at least two will conduct the observations and discussion involved in the visit while one will monitor the process.

In preparation for the visit, the authorised representatives may wish to refer to:

- Comments made to Healthwatch Havering by people with direct experience of the service (e.g. service users, patients, and residents and their families or carers, and user groups or forums)
- Information from the service's formal complaints procedure as well as anecdotal comments about the services or premises
- Monitoring reports and recommendations produced by service regulators (e.g., the Local Overview and Scrutiny Committee or the Care Quality Commission) and agencies such as Patient Advice & Liaison Service (PALS)
- Publications from statutory bodies setting out recommended practices, national minimum standards of service, etc., for different types of care provision (e.g. for people with dementia, people with challenging behaviour, people who are close to death, etc.)

With regard to the practical arrangements for the visit they should also:

- Identify any special support needs necessary to facilitate the visit (e.g. interpreters, signers, advocates, private rooms)
- Decide if a specific mix of authorised representatives (in terms of gender and diversity) is appropriate
- Allocate specific topics of enquiry within the team so as to ensure full participation by each representative.