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**healthwatch**

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cc. Rt. Hon. Jeremy Hunt MP, Secretary of State, Department of Health  
cc. Cllr David Sparks OBE, Chair, Local Government Association

20<sup>th</sup> August 2014

Dear Simon,

You will have seen my letter and advisory note to the Secretary of State of 16<sup>th</sup> July, and his response of 11<sup>th</sup> August, about the potential impact of the Draft Legislative Reform (Clinical Commissioning Groups) Order 2014 (the LRO).

I am writing to you now in accordance with our powers to provide you with information and advice under s.45A (5/6) of the Health and Social Care Act 2008, as amended by s.181 of the Health & Social Care Act 2012.

This letter is also sent in anticipation of your duties under 14Z8 of the National Health Service Act 2006, as amended by s.26 of the Health & Social Care Act 2012, to consult Healthwatch England before the publication of revised guidance that will result from the LRO.

To address the concerns I have raised with the Secretary of State, I am writing to you to request an assessment of the assurance of Clinical Commission Groups (CCGs) involvement of local Healthwatch and the public in decisions about service change, as set out under the CCG Assurance Framework and Operational Guidance. It is my understanding that NHS England routinely collects this information as part of CCG assurance reporting.

Within this assessment, I would like to see a detailed overview of the delivery of *Domain 2*, which focuses on whether patients and the public are actively engaged and involved in CCG decision making.

In addition to this, I would like to request a further assessment of CCGs compliance with the legislation and statutory guidance relating to public involvement in decision making. Specifically the duties under s. 14Z2 of the National Health Service Act 2006, as amended by s.26 of the Health & Social Care Act 2012 and the statutory guidance set out in *Transforming Participation in Health and Care* issued by NHS England in 2013. I have copied the text of these duties in the Annex to this letter.



These assessments will provide us with the information we need to give further advice to the Secretary of State on this matter, under s.45A (5/6) of the Health and Social Care Act 2008 (as amended).

I appreciate this request will require a short turn around at your end, but I know you will understand the importance of sharing this information with the Secretary of State and myself before the LRO returns to Parliament.

Our respective staff have been speaking about these concerns and sharing intelligence from local Healthwatch and your area teams. We will, of course, continue to work with NHS England on the additional guidance, materials and resources that may be needed to support better assurance of joint decision making by CCGs and engagement with local Healthwatch and communities.

We will also be working with the Department and the Local Government Association to explore how their programme of activity can be strengthened to ensure local Healthwatch and other Health and Wellbeing Board partners have the knowledge and resources available to them to hold CCGs working in joint committees to account. I will be writing to Cllr David Sparks to explore this further and will copy you into this correspondence.

As ever, do not hesitate to contact me if you require any further information and advice on this matter.

Kind regards,

Anna Bradley  
Chair, Healthwatch England



**Annex A: s. 14Z2 of the National Health Service Act 2006, as amended by s.26 of the Health & Social Care Act 2012**

14Z2 Public involvement and consultation by clinical commissioning groups

- (1) This section applies in relation to any health services which are, or are to be, provided pursuant to arrangements made by a clinical commissioning group in the exercise of its functions (“commissioning arrangements”)
- (2) The clinical commissioning group must make arrangements to secure that individuals to whom the services are being or may be provided are involved (whether by being consulted or provided with information or in other ways)—
  - (a) in the planning of the commissioning arrangements by the group,
  - (b) in the development and consideration of proposals by the group for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them, and
  - (c) in decisions of the group affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.
- (3) The clinical commissioning group must include in its constitution—
  - (a) a description of the arrangements made by it under subsection (2), and
  - (b) a statement of the principles which it will follow in implementing those arrangements.
- (4) [NHS England\*] may publish guidance for clinical commissioning groups on the discharge of their functions under this section.
- (5) A clinical commissioning group must have regard to any guidance published by [NHS England] under subsection (4).
- (6) The reference in subsection (2)(b) to the delivery of services is a reference to their delivery at the point when they are received by users.

\* The legislation refers to the NHS Commissioning Board (or the Board), which is now branded NHS England