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To:

Jeremy Wallman, Head of Primary Care Commissioning, NEL ICB
Sarah See, Managing Director of Primary Care, NEL ICB
cc: Mark Creelman, SRO for Pharmacy, Optometry and Dentistry, SWL ICB

16.07.2024

Dear Jeremy and Sarah,

I am writing on behalf of Healthwatch Richmond upon Thames to express our deeply held concern with the decision making process with regard to application CAS-261646-R3T2P9. The process and the outcome are most unsatisfactory.

Timeline & Background

- **16th November 2023:** date of application CAS-261646-R3T2P9
- **December 2023:** Supplementary Statement issued by Richmond Health & Wellbeing Board
- **20th January 2024:** the Health & Wellbeing Board and Healthwatch Richmond were advised of the above application
- **7th July 2024:** The decision to refuse the application was issued with the reason given as follows:

“The applicant seeks to provide unforeseen benefits to residents in the Hampton area of Richmond. The improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1. However, the subsequent Supplementary statement has indicated a gap in services, so is now included in the PNA.”

“At the point of considering this application the supplementary statement was issued indicating a gap in service, therefore the application for an unforeseen benefit cannot be considered.”

Concerns

The Supplementary Statement was issued by the Health and Wellbeing Board (of which SWL ICB is a member) in December 2023, some weeks after the application was submitted and a month before the Board were made aware of the application.

The application was refused because the Supplementary Statement was published after the application was submitted, albeit, both identified the same needs. Part 3, paragraph 18 of The National Health Service (Pharmaceutical Services) Regulations 2012, does not appear to require the refusal of applications in such instances. The refusal of this application appears to be arbitrary and perverse.

It is unclear to us how any application made in November 2023 could have had any prospect of success. It does seem reasonable that timely applications to open pharmacies in response to multiple closures should be inherently prevented in this way. Neither the spirit nor the letter of The National Health Service (Pharmaceutical Services) Regulations 2012 suggest that this should be the case or that the ICB would not have some discretion in how it resolved this matter.

Given that NEL ICB's decision to reject the application rested on evidence that was apparent in December 2023, it is unclear why this decision was not taken until July 2024.

In the 8 months since the application was made, the only tangible development is that there is now an application to open a fast food outlet on the pharmacy site. This would be a most unfortunate outcome in light of both the established need for a pharmacy in the area, and an application to open a pharmacy on the site.

Recommendations and Requests

Having made enquiries with both SWL ICB and PCSE we have established that NEL ICB is the responsible body for this decision and the correct body to respond to our requests and recommendations on this matter.

Public bodies receiving requests and recommendations from Local Healthwatch, including NEL ICB, are required to respond within 20 days.

With that in mind, we formally:

- Request an explanation as to why this matter took 8 months, from the application dated 16th November 2023 to the decision published on 7th July 2024, to be resolved. The Supplementary Statement to the PNA was published in December 2023, some 7 months before the decision was taken.

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- Request an explanation as to the basis for this decision with specific reference to the regulations or legislation that require applications for Unforeseen Benefits to be rejected when Supplementary Statements are subsequently published.
- Request an explanation of how any application made in November 2023 (i.e. following the closures of pharmacies and the emergence of clear and urgent, but prior to the publication of the Supplementary Statement) could have had any prospect of success in addressing the substantial and ongoing and unmet Pharmacy needs of residents in Hampton.
- Recommend that NEL ICB set out what actions they will take to procure for, as swiftly as possible, sufficient pharmacy provision for Hampton residents (whether by reconsidering this application, by working with the applicant and stakeholders to overcome the technicalities on which the application was refused, by expediting future application processes, or by other means).

Given that this process began 8 months ago we intend to make this request and our concerns public shortly. I would therefore urge you to engage with us proactively on this matter and to treat this as an urgent press enquiry as well as responding to the statutory request in due course.

We do not support or oppose any particular application and our questions relate simply to resolving the insufficient provision of pharmacy services within Hampton as identified by ourselves and the Supplementary Statement as soon as possible.

Yours sincerely,

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