

A guide to

running

Healthwatch

How to meet your legal obligations and exercise your powers

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1. Introduction

This guide explains the statutory requirements for Healthwatch and sets out principles of good governance which should be applied when delivering Healthwatch.

Although we focus on legislation that is specific to Healthwatch, we have also identified other significant legislation and resources that you will need to follow.

The information here is our interpretation of the legislation and regulations. Since 2012, as new obligations and queries arise, we continue to develop our guidance on compliance and best practice. It is not intended and should not be used as legal advice.

This document may be subject to change. The latest version will be available on the Healthwatch Network site for staff and volunteers and we will issue a notification of any changes.

Whilst Healthwatch England cannot provide legal advice to local Healthwatch, if there are areas of the legislation where you would welcome further clarity, then please contact your Regional Manager.

Healthwatch principles

Healthwatch are set apart from the statutory structures, voluntary and community sector they work within, as they perform public functions, deliver statutory duties and receive public funding. This is recognised in law, for instance, as Healthwatch have specific requirements under the Freedom of Information Act as well as Healthwatch legislation. Their core purpose of making sure the views of the public shape the health and care services they need, requires them to be:

Independent in purpose - amplifying the voice and experiences of the most pressing and difficult issues in health and social care.

Independent in voice - speaking up on behalf of sometimes unpopular causes or groups who are marginalised and/or face disadvantage or discrimination.

Independent in action - designing and delivering activities that best meet the needs of the people they serve.

If Healthwatch are to hold others to account, they themselves must operate with integrity, accountability and transparency to have credibility with the communities they serve.

This guide seeks to help translate where these principles need to be applied in the operation of Healthwatch.

2. What does the legislation say about Healthwatch?

The Local Government and Public Involvement in Health Act 2007, which was amended by the Health and Social Care Act 2012, outlines the main legal requirements of Healthwatch. This is underpinned by many other regulations which give more detail about how activities should be undertaken.

The law refers to the roles of:

- Local authorities - who are required to make provision for Healthwatch
- Providers of Healthwatch services (referred to as Healthwatch in this guide)
- Healthwatch England - whose main role is to provide advice and support to every Healthwatch

Legislative frameworks are often complex. It is important to consider what legislation states about Healthwatch, local authorities and Healthwatch England. It says:

- What they must do (duties)
- What they may do (powers)
- What is prohibited

Local authorities must make provision for the following statutory activities:

- 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 improved
- Obtaining the views of local people regarding their need for, and experiences of, local care services and importantly to make these views known to those responsible for commissioning, providing, managing or scrutinising local care services and to Healthwatch England
- 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
- Providing advice and information about access to local care services so choices can be made about local care services
- Formulating views on the standard of provision and whether and how the local care services could and ought to be improved; and sharing these views with Healthwatch England
- Making recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to conduct special reviews or investigations (or, where the circumstances justify doing so, making such recommendations direct to the CQC); and to make recommendations to Healthwatch England to publish reports about issues
- Providing Healthwatch England with the intelligence and insight it needs to enable it to perform effectively

3. Setting up a Healthwatch

The role of a local authority

Every local authority in England must arrange for a social enterprise to deliver an effective Healthwatch in their area. The local authority will issue a grant agreement or contract to a provider organisation with a specification for how the service will be delivered, including the statutory functions and local requirements.

What is a social enterprise?

Local Healthwatch must be provided by an organisation which is a social enterprise as defined by the legislation:¹

1. Regardless of the legal structure of the organisation, it can only be a social enterprise if a person might reasonably consider that it acts for the benefit of the community in England.
2. Certain political activities are also prevented, by legislation, from falling within this definition.²
3. The organisation must either fall into one of the following three categories:

- Companies limited by guarantee and registered as a charity
- Community Interest Companies (CIC)
- Charitable Incorporated Organisations (CIO)

Or have a constitution which:

- Ensures that over 50% of its distributable profits in each financial year will be used for Healthwatch activities
- Contains a statement or condition that the local Healthwatch is carrying out its activities for the benefit of the community in England, and
- Contains specified provisions relating to the distribution of assets in the event of the body being dissolved or wound up.³

Depending on the type of legal entity, Healthwatch will need to comply with appropriate legislation, including the Companies Act (2006) and the Charities Act (2011). The National Council for Voluntary Organisations (NCVO) has [a checklist](#) setting out the compliance requirements for voluntary organisations.

Further information on the various legal forms which organisations may take can be found at [National Council for Voluntary Organisations \(NCVO\)](#).

¹ s.222(8) of the Local Government and Public Involvement in Health Act 2007 (LGPIHA) and attendant regulations (reg 35 to 38 of the [NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)).

² [Regulation 36](#)

³ [Regulation 35\(2\)](#) specifies that the provisions which must be included are ones which: (a) require that the residual assets of the body be distributed to those members of the body (if any) who are entitled to share in any distribution of assets on the dissolution or winding up of that body according to those members' rights and interests in that body; (b) in the case of a company not limited by guarantee and registered as a charity in England and Wales, provide that no member shall receive an amount which exceeds the paid up value of the shares which the member holds in the company; and (c) designate another social enterprise company to which any remaining residual assets of the body will be disturbed after any distribution to members of the body.

What kinds of delivery models are there?

For this guide we distinguish between two models:

Standalone model: An organisation (i.e. the legal entity that holds the contract) set up solely to run a specific Healthwatch.

Hosted model: An organisation that provides a range of services, including a Healthwatch and/or it may solely deliver two or more Healthwatch contracts.

Your governance structures

The Board of the organisation that holds the Healthwatch contract comprises individuals who are responsible for ensuring the activities carried out by Healthwatch complies with the law and regulations. The Board is accountable for the work of Healthwatch, including to a membership if this is stipulated in your governance documents.

[Visit the NCVO's website for more information about governance.](#)

Sub-contracting and consortiums

The local authority may authorise local Healthwatch to arrange for some (but not all) of the activities to be carried out by another organisation on the Healthwatch's behalf.⁴

Healthwatch England's role

Healthwatch England is the independent national body. Although we are a statutory committee of the Care Quality Commission, we set our own priorities, have our own brand identity, and speak with an independent voice.

Healthwatch England has four main functions:

- To provide leadership and support to local Healthwatch organisations
- To issue recommendations of a general nature to local authorities in England as well as raise concerns about the work of local Healthwatch organisations
- To escalate concerns about health and social care services raised by local Healthwatch and others to the CQC
- To provide advice to the Secretary of State, NHS England, NHS Improvement and local authorities, all of whom are required to respond in writing to that advice.

Healthwatch England has a statutory power to make general recommendations to a local authority about Healthwatch arrangements. We fulfil this by offering to work with local authorities at all stages of the commissioning cycle and by providing advice about how best to achieve and maintain appropriate standards.

Healthwatch England's role does not extend to monitoring performance of Healthwatch provision. However, it does have the power to issue a written notice to a local authority if

⁴ Section 222(2B) Local Government and Public Involvement in Health Act 2007

Healthwatch England decides that such provision is not being carried out properly.⁵ This includes commissioning proposals and concerns about Healthwatch effectiveness.

The Healthwatch brand

What is the Healthwatch trademark licence?

As Healthwatch England is an independent statutory committee of the Care Quality Commission (CQC), legally CQC owns the trademark for the Healthwatch logo and text. Section 45D of the Health and Social Care Act 2008 gives Healthwatch England the discretion to grant a licence to Healthwatch organisations to use the local Healthwatch name and logo when carrying out its statutory functions. The Healthwatch logo and text are both trademarked in the UK.

To operate under the Healthwatch brand, the Healthwatch provider must sign and abide by a trademark licence issued by Healthwatch England. The licence includes schedules that set out use of the Mark. This can include style and branding guidance and other specifications. Specifications and guidance may be amended from time to time to ensure consistent use of the Marks by providers. If changes are made, the licensee will be advised in writing.

Before a trademark licence is signed, Healthwatch England may need assurance from the local authority that contract specifications, contract terms and monitoring arrangements do not conflict with Healthwatch brand requirements.

What requirements does a provider need to meet to hold a licence?

A provider can apply for a trademark licence once a contract or grant agreement has been issued by its local authority.

Your responsibilities

The trademark licence places certain obligations on the Healthwatch provider (the licensee) to act and use the marks in a way which preserves their reputation of the marks and that of the local Healthwatch programme, the National Healthwatch programme, CQC or any local Healthwatch organisation.

If you subcontract your work

If a local Healthwatch subcontracts work associated with its statutory functions and powers, you will need to apply for a different trademark licence.

If you hold a contract for multiple local Healthwatch

If a provider organisation holds a contract for multiple local Healthwatch, they will need to sign one licence for each local authority area. This means you will need to have a separate contract and use separate logos for each local Healthwatch you manage. Every Healthwatch must have its own separate licence.

How to apply for a trademark licence

To apply for a Healthwatch licence please email enquiries@healthwatch.co.uk or [speak to one of our Regional Managers](#).

⁵ [Section 45A\(4\) Health and Social Care Act 2008](#)

What can the Healthwatch brand be used for?

The Healthwatch brand must only be used when carrying out activities prescribed in s.221(1) (the “statutory activities”). The Healthwatch brand cannot be used for any additional work which is not classed as a statutory function or power. Healthwatch should carefully consider their trading name and associated branding if they want to carry out activities which fall outside of s221 (1) activities. Healthwatch providers must contact Healthwatch England to discuss such circumstances. For example, advocacy services.

What arrangements should be made when a contract changes hand?

The trademark licence terminates when the contract between the local authority and the Healthwatch provider ends and the provider is no longer able to use the Healthwatch brand.

Appropriate contractual arrangements should be in place to ensure that when a provider organisation comes to the end of its Healthwatch contract, resources, website, social channels, data and insight are transferred to a new provider. This will ensure a continuous and uninterrupted Healthwatch service for the public.

Advocacy

Rules for Independent Health Complaints Advocacy contracts

Local authorities have a duty to commission an Independent Health Complaints Advocacy (IHCA) service. Holders of a local Healthwatch contract can bid for an IHCA contract.

However, if the IHCA contract is not awarded to the local Healthwatch provider, the IHCA provider must not subcontract any of the IHCA activities to the local Healthwatch.

You should aim to build a good relationship with the local IHCA provider and share relevant intelligence. The relationship between local Healthwatch (and if separately provided) the IHCA provider is very important, as the information they gather and share with each other contributes to the wider picture of people's experience of NHS services.

Although some Healthwatch deliver IHCA, those services do not fall within the remit of Healthwatch England.

Can the Healthwatch brand be used to promote advocacy services?

Although the Healthwatch brand can be used to make local people aware of advocacy services (for example, by having information about a service on a Healthwatch website) the Healthwatch brand guidelines and licence does not allow for an advocacy service to call itself ‘Healthwatch Advocacy’.

The Local Government Association recommends that providers and commissioners adopt the common term ‘Independent Health Complaints Advocacy’ for their service. This is a recommendation that Healthwatch England supports to help avoid public confusion.

4. Governance and decision-making

There are several points in the legislation that require good governance, transparency and accountability, including publication of clear decision-making, reporting and management of conflicts of interest. As a private body delivering public services, there is an expectation that Healthwatch providers will operate to the Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honest and leadership. These elements should be reflected in your governance and decision-making arrangements, organisational values, systems and processes.

Decision making

Being transparent

Decision-making is an important component of a Healthwatch with the legislation and regulations making specific provisions. With such a wide remit, limited resources and a requirement to demonstrate independence, your Healthwatch must be transparent in the way it makes decisions and operates.

This is not only a legal requirement under both Healthwatch legislation and the Freedom of Information Act, but also one aspect of the Nolan principles of public life:⁶

“Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.”

We strongly advise that these procedures, decision-making processes, and minutes from meetings are published on your Healthwatch website to comply with requirements.

Process for decision-making

The regulations state that the arrangements for carrying out local Healthwatch activities (and the arrangements for sub-contracting those activities) must require Healthwatch to establish and publish procedures for its decision-making in relation to “relevant decisions”.⁷ The procedures must include:⁸

- Who can make decisions
- How lay persons or volunteers can be involved in these decisions
- How to deal with breaches of any procedure, including the circumstance in which a breach would be referred to the local authority

The procedure for making decisions must be followed and should be published on your Healthwatch website before any relevant decisions are made.

⁶ <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

⁷ [Regulation 40, The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

⁸ [Regulation 40\(4\), The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

Any amendments to these procedures must be published as soon as practicable. A relevant decision should not be taken without the necessary published procedure being in place.

Where your Healthwatch operates under a hosted model, you need to ensure transparency of decision-making between Healthwatch (e.g. Advisory Group) and the hosted organisation, and the arrangements for complying with the procedures set out above.

What is a relevant decision?

Relevant decisions include:

- How to undertake your activities
- Which health and social care services you cover with your activities
- The spending amounts of your activities
- Whether to request information
- Whether to make a report or a recommendation
- Which premises to enter and view and when those premises will be visited
- Whether to refer a matter to an overview and scrutiny committee
- Whether to report a matter concerning your activities to another person
- Any decisions about subcontracting

After a relevant decision has been made, local authority arrangements must also require your Healthwatch to publish a written statement on your website outlining what the decision is and the reasons why it was taken.⁹

Involving lay people and volunteers

Local authority arrangements must also make provision for involving lay people and volunteers as defined in the regulations.¹⁰ They should be included in your decision-making and involved in your activities. Consideration should be given to this requirement where Healthwatch operate under a hosted model and decision-making may be split between an Advisory Group and the Board of the hosting organisation.

A **lay person** is:

- Not a health or social care professional
- Not an employee of a Healthwatch organisation

A **volunteer** is an unpaid person (except for travel or other expenses) and is (a) a member or director of, or otherwise participates in the governance of the organisation or contractor

⁹ Regulation 40(1) [The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

¹⁰ Regulation 34 and 40(1)(g) [The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

(b) is engaged in carrying out relevant section 221 activities by that organisation or contractor.

Breaches of any procedure

Local authority arrangements should set out how Healthwatch reports any breaches in procedures to the local authority.

Conflicts of interest

People involved in your Healthwatch may be involved in other activities or have personal interests which create, or appear to show, a conflict of interest with their Healthwatch duties. It is therefore essential that your local Healthwatch has a transparent conflicts of interest policy publicly available.

Conflicts of interest in commissioned work

Many local Healthwatches generate additional income to their core local authority contract funding, for example, by carrying out commissioned work. It is critical that your local Healthwatch checks terms before seeking or accepting additional work to ensure your independence is not compromised. You will need to understand how it could affect your contract with the local authority.

Please note that the Healthwatch brand can only be used for work which falls within the defined s221(1) activities.

Independence and political activity

Local Healthwatch should strike a careful balance between being the independent champion for the public as well as a valued part of the health and care system.

Can a Healthwatch take part in political activities?

An organisation will not be permitted to carry out Healthwatch activities unless it meets the statutory definition of a social enterprise. E.g. if a person might reasonably consider that it acts for the benefit of the community in England. The regulations specifically state that the following activities cannot be categorised as “for the benefit of the community in England”:

- (a) “the promotion of, or opposition to, changes in—
 - (i) any law applicable in the United Kingdom or elsewhere; or
 - (ii) the policy adopted by any governmental or public authority in relation to any matter”
- (b) the promotion of, or opposition (including the promotion of changes) to, the policy which any governmental or public authority proposes to adopt in relation to any matter;
- (c) activities which can reasonably be regarded as intended or likely to—
 - (i) provide or affect support (whether financial or otherwise) for a political party or political campaigning organisation; or
 - (ii) influence voters in relation to any election or referendum.¹¹

¹¹ [Regulation 36, The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

However, the regulations specifically state that these activities can still be categorised as “for the benefit of the community” (and therefore permitted by local Healthwatch organisations, if “they can reasonably be regarded as incidental to other activities, which a person might reasonably consider to be activities carried on for the benefit of the community in England”).

As the main functions of local Healthwatch relate to supporting involvement and collecting people’s views to influence services, activities falling under (a), (b) or (c) above could be incidental to those functions. Therefore, provided those activities are undertaken because of the statutory functions (e.g. As a result of views gathered by Healthwatch) and remain ancillary to those functions, Healthwatch may be able to carry out those activities. It is the responsibility of local Healthwatch to demonstrate that any campaigning activity is truly incidental to its other activities and to ensure that it is compliant with all relevant terms of the arrangements with the Local Authority.

Reputational risk

Healthwatch will need to consider any reputational risk to prevent any of its activities being perceived to be linked with a political viewpoint, and the potential to impact on people’s willingness to engage with the organisation. Again, demonstrating that any campaigning is based on the views of local people may underpin the case for a Healthwatch undertaking such activity.

To achieve this, Healthwatch should not:

- Give support or funding to a political party, nor to a candidate or politician
- Be used as a vehicle for the expression of political views
- Endorse or comment on any party or candidate. Instead it should concentrate on the issues that they are raising as they relate to local people. This not only applies to political parties but also ‘political campaigning organisations’.

During an election period

During an election period, local Healthwatch must be careful not to produce material that could be regarded as “election material”. For example, anything that explicitly advocates a political party or party candidate or advises on voting for or against a particular party or candidate.

Healthwatch England will provide national guidance for elections, but local Healthwatch will need to consider their position if there are any by-elections or similar in their area. We have issued separate guidance in relation to the purdah period, which is the period before an election when public authorities are limited in what they can do. You should ensure that your Healthwatch does not schedule anything during that period that might be perceived as political activity.

[For more information read our guidance on purdah.](#)

5. Running a Healthwatch

What are the functions of a Healthwatch?

The legislation states that every local Healthwatch must carry out the following activities:¹²

- 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 improved.
- Obtaining the views of local people regarding their need for, and experience of, local care services and importantly to make these views known to persons responsible for commissioning, providing, managing or scrutinising local care services and to Healthwatch England.
- 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.
- Providing advice and information about access to local care services so choices can be made about local care services.
- Formulating views on the standard of provision and whether and how the local care services could and ought to be improved; and sharing these views with Healthwatch England.
- Making recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to conduct special reviews or investigations (or, where the circumstances justify doing so, making such recommendations direct to the CQC); and to make recommendations to Healthwatch England to publish reports about particular issues.
- Providing Healthwatch England with the intelligence and insight it needs to enable it to perform effectively.

What does local area mean?

By law, there must be a Healthwatch in every local authority. The local area refers to the local authority area.

Who are local people?

Defined by legislation

The legislation describes local people as:

- (a) people who live in the local authority's area
- (b) people to whom care services are being or may be provided in that area
- (c) people from that area to whom care services are being provided in any place, and

¹² [Section 221 of the Local Government and Public Involvement in Health Act 2007](#)

who are (taken together) representative of the people mentioned in paragraphs (a) to (c).¹³

Who does the remit cover?

The remit of Healthwatch extends to people from the devolved regions (Northern Ireland, Scotland and Wales) if they receive services in England as part of the health service. For example, if a person living in Wales is using a health or care service in an English local authority area, they would be part of the group of 'local people' covered by the Healthwatch organisation for that area.

The remit of Healthwatch would also cover people from England if they use services in the devolved regions as part of the health service or as part of the social services functions of an English local authority (e.g. a placement in a care home). For example, if somebody from an English local authority was receiving social services in Wales, arranged by their English local authority as part of its social services functions, that person would be part of the group of 'local people' covered by the local Healthwatch organisation for that local authority.

Does the remit cover children and young people?

The expectations with regards to the work of Healthwatch are the same for adults and children. The only difference is that Healthwatch do not have the power to visit premises, using Enter and View powers, if a service relates to a local authority's social services functions for people under the age of 18.

What services are covered by a Healthwatch?

Under the 2007 Act, local Healthwatch activities relate to publicly funded health and social care services.¹⁴ The Department of Health and Social Care has expressed the view that Healthwatch activities should also cover partially publicly funded services, such as private and independent providers who are in receipt of public funding. This means, for example, that providers who deliver services to both self-funders and publicly funded service users fall within the remit of Healthwatch.

The remit of Healthwatch also extends to personal budgets which are arranged under the Care Act 2014.¹⁵ Personal budgets may lead to services being commissioned directly by the local authority or to funding being provided as Direct Payments to enable the individual to arrange their own support.

Services outside the Healthwatch remit

Services outside NHS and local authority social services (e.g. privately funded care that is not provided as part of the NHS or as part of local authority social services) are not within the scope of Healthwatch statutory remit. However, as Healthwatch are independent organisations, they have some freedom about any additional activities they undertake. They could (in principle) voluntarily choose to cover private and independent providers not in receipt of public funding provided their constitution or governing document allowed it and they had the agreement of the service provider.

As the local authority funds the delivery of statutory functions, it is likely that local Healthwatch would need to use an alternative income source to support any non-statutory initiative. Finally, whilst they could choose to work with private providers who do not have any publicly-funded

¹³ [Section 221\(6\) Local Government and Public Involvement in Health Act 2007](#)

¹⁴ [Section 221 of the Local Government and Public Involvement in Health Act 2007](#)

¹⁵ [Section 9 of the Care Act 2014](#)

service users, there is no statutory requirement for those private providers to give local Healthwatch any information or to respond to recommendations or comment.

Holding public meetings

What is the difference between a ‘meeting in public’ and a ‘public meeting’?

It is helpful to understand the difference between a ‘meeting in public’ and a ‘public meeting’.

- A **public meeting** is one where members of the public will be able to speak (and will be encouraged to do so)
- A **meeting in public** is where the public and the press may attend as observers, without the right to contribute. However, the chair of the meeting may decide to let the public contribute - for example, by allowing questions - but it is not required to do so

Do all Healthwatch meetings need to be in public?

Local Healthwatch meetings, including board or advisory group meetings, must be open to the public where items on the agenda are considering and making decisions about their statutory activities.¹⁶

It is possible, by resolution, to exclude the public or news agencies from a meeting (or part of a meeting) where publicity would be prejudicial. This could relate to the confidential nature of the business (such as certain personnel or commercially sensitive matters) or for other special reasons stated in the resolution such as receiving information, reports or advice from third parties. This is a decision that you would need to make on a meeting by meeting basis. The expectation is that meetings should be open to the public unless a decision is made to the contrary.

Although your Healthwatch needs to be transparent, there should be safeguards to ensure that any confidential matters are not made public. It is important that your Healthwatch decides in advance whether certain agenda items should be held in private. If sensitive issues with confidential information are raised during the meeting, the decision may need to be made to hold the remainder of the meeting in private.

Preparing for a meeting in public

You must post a notice of the time and place of your meeting at your office or on your website at least three clear days before your public meeting (or if the meeting is convened at shorter notice, at the time it is convened). This does not include the day the notification is published, or the day of the meeting. If your Healthwatch does not have an office, then you should publish a notice in a central location instead.

If you receive a request from a media outlet, you should provide a copy of the agenda and relevant papers. Your local authority will be used to holding meetings in public and may be able to offer you some insight or advice.

After the meeting, you should make the minutes, agenda and papers available on your website as soon as possible. It is good practice to make the agenda publicly available in advance of the meeting.

¹⁶ Section 1 and schedule 2 paragraph 1 to [The Public Bodies \(Admission to Meetings\) Act 1960](#)

It can be useful for the chair to explain requirements for a public meeting as set out above at the beginning of the meeting so that people understand and know whether they can contribute.

6. How to meet your obligations

Annual report

By law, every local Healthwatch must publish its annual report by 30 June each year. The report should outline how you have met your statutory responsibilities for the financial year that ended 31 March.¹⁷

These reports must include how Healthwatch:¹⁸

- Engage with diverse communities
- Use volunteers and lay people to support their governance and activities
- Share their data and insight to improve services. For example, with Healthwatch England, CQC or local health and social care services
- Have made an impact as a result of their activities
- Have spent their funding (or a subcontractor delivering Healthwatch activities)

[We produce an annual report template and checklist to ensure you meet your legal requirements.](#)

Who should produce the annual report?

The report must be prepared by the provider who has held the local Healthwatch contract in the relevant reporting period; regardless of whether they continue to hold the contract at the end of that period. Where the change of providers takes place partway through the financial year, all providers are required to contribute to the annual report.

Who should you share your annual report with?

The Annual Report must be made publicly available and you should send a copy to each of the following:

- Healthwatch England
- Your local authority
- NHS England
- Any clinical commissioning group which is wholly or partly in your local authority area
- Any overview and scrutiny committee of your local authority
- The Care Quality Commission

¹⁷ [Section 227 of the Local Government and Public Involvement in Health Act 2007.](#)

¹⁸ [The Matters to be Addressed in Local Healthwatch Annual Reports Directions 2013](#)

Enter and View

Healthwatch can choose to use its legal power to visit health and social care services and see them in action.¹⁹ This power to *Enter and View* services offers a way for you to meet your statutory functions and allows you to identify what is working well with services and where they could be improved.

The purpose of an *Enter and View* visit is to collect evidence-based feedback to highlight what's working well and what could be improved. Healthwatch can use this evidence to make recommendations and inform changes both for individual services as well as for the whole system.

These powers do not allow local Healthwatch to enter parts of a care home which are not communal areas or premises related to social services for children and young people under the age of 18.

Regulations include specific conditions for Enter and View. Local Healthwatch must:²⁰

- (a) Have and publish a procedure for the making of decisions about who may be an authorised representative;
- (b) If any amendments are made to the procedure referred to in sub-paragraph (a), as soon as practicable publish the procedure as amended;
- (c) Comply with the procedure referred to in sub-paragraph (a) as may be amended from time to time;
- (d) Maintain and publish a list of individuals authorised as authorised representatives;
- (e) Provide each authorised representative with written evidence of that individual's authorisation; and
- (f) Ensure that they obtain and consider a criminal records certificate under section 113A of the Police Act 1997 and only permit them to be an authorised representative if Healthwatch (or their sub-contractor where appropriate) is satisfied that the individual is a suitable person for the purposes of entering and viewing and observing the carrying-on of activities on, premises owned or controlled by a services-provider.

[Read our Enter and View guidance to find out more about Healthwatch powers and recommended practice.](#)

Health and Wellbeing Board

The Health and Social Care Act requires local authorities to set up Health and Wellbeing Boards which work to improve the health and wellbeing of their local population.²¹

Healthwatch are required to “appoint one person to represent it on the Health and Wellbeing Board”. It is not stipulated who should be appointed, although typically the representative is a Healthwatch Chair or Chief Officer. It is important that the appointed person describes

¹⁹ [Section 225 of the Local Government and Public Involvement in Health Act 2007](#) and [Local Authorities \(Public Health Functions and Entry to Premises by Local Healthwatch Representatives\) Regulations 2013](#)

²⁰ [Regulation 42 of The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012](#)

²¹ [Section 194 of the Health and Social Care Act 2012](#)

themselves in a Healthwatch role as opposed to another role they may hold such as an officer of a hosting organisation.

You will need to consider how to get the best out of your involvement on the board, recognising your Healthwatch is a full member. Your Healthwatch's role is not limited to reporting on your work, and you can also ensure that the public voice is appropriately reflected in all areas of work. This could include your Healthwatch undertaking work and presenting views, but it could also mean ensuring that partner organisations build public engagement into their work.

From a practical point of view, if your Healthwatch has a place on the Health Overview and Scrutiny Committee as well as the Health and Wellbeing Board, you should nominate different representatives so that there is no perceived conflict of interest.

Overview and scrutiny

Healthwatch may identify issues of broader concern that you have been unable to resolve. In these circumstances you may decide to refer the issue to the council's overview and scrutiny process.²² This may be a separate health overview and scrutiny committee (often shortened to HOSC) or a general committee or board.

When local Healthwatch formally refers an issue to overview and scrutiny, the local authority must:

- Acknowledge receipt of the referral within 20 working days beginning with the date on which the referral was made
- Keep the local Healthwatch informed of any action taken in relation to the matter

7. Key legislation which Healthwatch must follow

Your Healthwatch is subject to a wide range of legislation. We have identified some of the key areas below.

Safeguarding and vulnerable adults

As well as considering how local health and care organisation deal with safeguarding as part of their service provision, Healthwatch must also have appropriate policies and procedures in place to ensure safeguarding. Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012 sets out regulated activity.

The Disclosure and Barring Service (DBS) can bar people from doing regulated activities. It is a criminal offence for a barred person to seek to work, or work in, activities from which they are barred. It is also a criminal offence for employers or voluntary organisations to knowingly employ a barred person in regulated activity.

²² [Regulation 21\(3\) of The Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) Regulations 2013](#)

Data protection

Every Healthwatch is responsible for ensuring it is compliant with data protection laws. The Data Protection Act 2018 (including the General Data Protection Regulation) sets a framework to help regulate the way personal data is used by organisations and individuals. Healthwatch must meet specific requirements because of its public role, including the requirement for a local authority to make provision for a Data Protection Officer.

[Read our guidance which explains what the law means for your Healthwatch.](#)

Equality and human rights

Healthwatch have an important role in promoting and protecting equality and human rights for everyone who uses health and social care services. As a private body delivering public functions, Healthwatch are subject to the Public Sector Equality Duty as provided in the Equality Act 2010 and the State's obligations under the Human Rights Act 1998.^{23 24}

[Find out more about the Equality Act 2010.](#)

²³ [Section 149 Equality Act 2000](#)

²⁴ [Section 6 Human Rights Act 1998](#)

Freedom of information and transparency

Local Healthwatch are specifically included in the Freedom of Information Act 2000, although only in respect of information held in connection with arrangements made under section 221(1) or arrangements made in pursuance of those arrangements. It provides the public a right to access information held by public bodies, unless certain exemptions apply. It also requires local Healthwatch to have a publication scheme in relation to their statutory activities.^{25 26}

The Information Commissioner has produced a model publication scheme, which sets out a checklist of the information which you should publish proactively on your website:

Who we are and what we do	Organisational information Locations and contacts Constitutional and legal governance
What we spend and how we spend it	Financial information relating to projected and actual income and expenditure Tendering Procurement and contracts
What our priorities are and how we are doing	Strategy and performance information Plans Assessments Inspections and reviews
How we make decisions	Policy proposals and decisions Decision making processes Internal criteria and procedures Consultations
Our policies and procedures	Current written protocols for delivering your functions and responsibilities
Lists and registers	Information held in registers required by law Other lists and registers relating to the function of the authority
The services we offer	Advice and guidance Booklets and leaflets Transactions and media releases A description of the services offered

We strongly recommend that you use the model publication scheme to ensure you meet your requirements.

²⁵ [Paragraph 35E Schedule 1 to the Freedom of Information Act 2000](#)

²⁶ [Section 19 of the Freedom of Information Act 2000](#)

8. Useful links

[ACEVO](#) (Association of Chief Executives of Voluntary Organisations)

[Charity Commission](#)

[Disclosure and Barring Service](#)

[Equality and Human Rights Commission](#)

[The Information Commissioner's Office](#)

[Local Government Association](#)

[NCVO](#) (National Council of Voluntary Organisations)

[Office of the Regulator of Community Interest Companies](#)

[Small Charities Coalition](#)