

Subject:	Establishment of a Local HealthWatch		
Date of Meeting:	19th January 2012		
Report of:	Strategic Director, Communities Strategic Director, People		
Lead Cabinet Member:	Adult Social Care & Health		
Contact Officer:	Name:	Michelle Pooley	Tel: 295053
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Key Decision:	Yes	Forward Plan No: 26657	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 For a number of years successive Governments have encouraged public involvement in health (and latterly social care) matters via statutory engagement vehicles: initially Community Health Councils, then Public and Patient Involvement Forums (PPIF), and currently Local Involvement Networks (LINK). LINKs are volunteer-led, but supported by a professional secretariat: the LINK 'host'. The host is contract managed by the city council.
- 1.2.1 The Health & Social Care Bill (2011) introduces another organisational change, replacing LINKs with new statutory bodies called HealthWatch (HW). The Bill requires local authorities to manage the transition from LINKs to HW in their areas, and subsequently, to contract manage the local HW.
- 1.2.2 The Health & Social Care Bill (2011) states, 'A local HealthWatch organisation (LHW) is a body corporate'. For an existing LINK to become a local HW organisation, the LINK would therefore have to become a body corporate.
- 1.2.3 This report requests delegated authority to award the contract in relation to the new statutory bodies called HealthWatch (HW) once the legislation and necessary Regulations are in force.

2. RECOMMENDATIONS:

- 2.1 That Cabinet agrees the commencement of a procurement process to appoint a suitably qualified organisation to enable the local HealthWatch to fulfil its proposed statutory duties as set out in the Health and Social Care Bill.

2.2 That Cabinet gives delegated authority for the Strategic Director People to enter into contract on suitable terms on behalf of the council upon completion of the procurement process and once the relevant legislation is in force.

2.3 That Cabinet approve the extension of contract with the current hosts of the LINK to April 2013.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The Health & Social Care Bill (2011) requires local authorities to rethink and reshape how patients and the wider community are engaged in the development and improvement of local care services.

3.2 Statutory support for public involvement in health and social care is currently provided by Local Involvement Networks (LINKs). LINKs were established in 2008 in every local authority area with social care responsibilities (in accordance with the 2007 Local Government and Public Involvement in Health Act). LINKs are volunteer-led organisations that enable local people to have a say in the commissioning and provision of health and social care services. LINKs have statutory powers enabling them to hold NHS commissioners and providers and local authority social care commissioners and providers to account. These powers include a right to 'enter and view' premises where care for adults is provided, and a power of referral to the local Health Overview & Scrutiny Committee. The work of LINKs is supported by professional administrative staff: the LINK 'host'. Hosts are contracted by the relevant local authority, but must be independent of local authorities and NHS trusts. Currently, host services for the Brighton & Hove LINK are provided by the Brighton & Hove Community & Voluntary Sector Forum (CVSF).

3.3 The new statutory bodies known as a Local HealthWatch (HW) will deliver all LINK services. Local HealthWatch will have additional responsibilities for NHS complaints advocacy and for elements of NHS signposting. HW must also have a seat on the local Health & Wellbeing Board, enhancing its ability to engage with strategic planning and commissioning issues. There will also be a national HealthWatch established as a committee of the Care Quality Commission, and local HW will be able to refer local issues to this body. Other indications, subject to final legislative and national guidance, are that HealthWatch will be:

- a "body corporate" which means a company or other institution that is legally authorized to act as if it were one person;
- an organisation, open to all, using the voices and experiences of the people it serves to encourage high standards of health and care provision and to challenge poor services;
- able to enter and view all publicly funded health and social care services either as unannounced spot checks or at agreed monitoring visits;
- required to promote the voice of local service users and carers in the commissioning of services, and in doing so, champion equality of health and care access and provision;

- able to appoint its own staff to carry out specific roles and will operate as an independent organisation.
- 3.4 The current proposal as of 3rd January 2012 is for the HW contract to go live in April 2013. However, we are still waiting for detailed guidance on the statutory structure and functions of HW (likely to be included in secondary legislation), and on DH evaluation of the HW pathfinder programme. In the absence of this guidance it would be unwise to engage in detailed transition planning at this point, as key elements of HW are still unconfirmed. However a set of fundamental principles for commissioning are being developed locally.
- 3.5 The engagement and representation of Young people through HealthWatch is an area of critical importance and is currently the subject of national consultation. In the absence of further information at this stage the proposed arrangements for Children and Young People's representation on the Shadow Health and Wellbeing Board are an important safe guard. These arrangements include Youth Council representation on the Shadow Board.
- 3.6 The City Council is in discussion with the Clinical Commissioning Group concerning opportunities to either align or jointly commission HealthWatch and the new patient engagement arrangements for the city. Further details and possible options for this work will be brought to future Public Health and Well Being Board Group and / or to the Shadow Health and Wellbeing Board meetings.

Funding.

- 3.4 Funding for the LINK is provided to local authorities by central Government. Initially this funding was via a specific DH grant, but from 2010 a number of specific grants, including the LINK grant, were rolled into formula funding. Funding for HW will eventually be provided via the Learning Disability and Health Reform grant, although details of this have not yet been published. Each local authority receives a flat sum of LINK funding with additional money in relation to population size. Annual funding for Brighton & Hove is confirmed until the end of the current Spending Review period (March 2015). LINK funding is not ring-fenced, and neither will HW funding be ring-fenced; currently the city council retains some money to cover the costs of contract management, and we expect to do so in the future to reflect the costs of contract managing HW. The Department of Health has identified that there will be £3.2 million available in 2012/13 for start up costs and will be allocated as part of the Learning Disabilities and Health reform grant.

Timetable.

- 3.5.1 The Government plans for HW to become operational in April 2013 and includes NHS complaints advocacy services going live in April 2013. This represents a slippage from the original intention for HW to be operational by April 2012, and poses a problem for local authorities as current LINK host contracts run out by April 2012.
- 3.5.2 The LINK contracts were set nationally at three years, running from April 2008 to April 2011, and renewed for 12 months on a local basis when it became apparent that HW would be replacing LINKs in April 2012. It will now be necessary to extend this contract pending completion of the procurement of the new HW contract, planned to take place by April 2013. There would be little value in re-tendering for a contract of twelve month's duration, so it is proposed that the current LINK host contract be extended to enable smooth transition to the new HW. An extension of contract is to be agreed with the CVSF.

3.6 **Transition Planning.**

- 3.6.1 In order to plan for the transitional arrangements for LINK to HW, the council has set up a HW working group, bringing together council officers (from Policy, Communities and Equality, Scrutiny, Adult Social Care, Procurement), LINK members, the city's voluntary and community sector, GP commissioners, and city NHS trusts.
- 3.6.2 The HW working Group have given comments and recommendations to the Public Health and Wellbeing Group on principles for procurement. From these, a transitional plan for LINKs and a re-tendering process will be developed.
- 3.6.3 In brief, the transition plan will identify and address key challenges in the transition process. These include:
- Using feedback from LINK members, the LINK host, the city council's contract manager and organisations that have worked closely with the LINK (e.g. NHS trusts, BHCC Adult Social Care) to highlight areas of good and of relatively weak performance, and planning HW support accordingly;
 - Identifying and mitigating against the major risks in transition (e.g. losing volunteer goodwill; ensuring that the LINK is adequately resourced for transition; ensuring that the LINK still represents local people effectively during the transition process);
 - Seeking LINK's involvement and support in the development of the Health and Wellbeing Strategy;
 - Ensuring that HW is capable of representing all city communities. Further work and clarification, as described above and in the appendix, on the representation of children and young people will be required;
 - Ensuring that HW is able to contribute positively to the local Health & Wellbeing Board (including taking a prominent role in public engagement around the city's Joint Health and Wellbeing Strategy).

3.7 **Procurement of HW support:**

The Health & Social Care Bill requires local authorities to procure independent administrative support for local HW. Given the sums involved for a multi-year contract, this will need to be organised via a competitive tender. To meet the planned deadline of April 2013, the tender process will need to commence in Spring 2012.

The Indicative Procurement Timelines are:

Placement of OJEU	March 2012
Evaluation of Expression of Interests	May 2012
Issue of Invitation to Tender	June 2012
Tender Evaluation	August/September 2012
Clarification's	September/October/November 2012
Contract Awarded	December 2012
Mobilisation and transition finalisation	January – April 2013

Please note that the above timelines may change as a result of DH guidance.

- 2.4 It is currently proposed that the new contract will subsist for an initial period of three years with the Council having an annual option to extend by periods up to a further 24 months subject to confirmation of funding. Should the budget not be confirmed, the new contract period will be reduced to twelve months with the option of renewing the contract on an annual basis.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 In line with both the community engagement framework and with procurement rules, at this stage in the process, information about the new arrangements for HW and the implications of the delay in relation to the Health & Social Care Bill (2011) have been explained to the current LINK hosts and volunteers. Informal consultation activities have been used in formulating the substantive plans for the LINK to HW transition.
- 4.2 The HW working Group have given comments and recommendations to the Public Health and Wellbeing Group on principles for procurement. The HW working group, includes representatives from the city council, the local Community & Voluntary Sector Forum, the Brighton & Hove LINK, Sussex Community NHS Trust and Sussex Partnership NHS Foundation Trust.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Department of Health has indicated an announcement on the provisional funding allocation for the additional functions of local HealthWatch will be made by the end of the year following the consultation on allocation options in July 2011. The funding will be allocated through the specific revenue grant for Learning Disabilities and Health Reform and based on the consultation will be in the order of £120,000, plus an additional £15,000 for start up costs. This will be in addition to the current level of funding allocated to LINK functions of £147,000 which is planned to increase by inflation subject to agreement of the budget strategy for 2012/13.

Finance Officer Consulted: Anne Silley

Date: 03/01/12

Legal Implications:

- 5.2.1 The Health and Social Care Bill is currently in Committee Stage in the House of Lords and there is no clear indication of timing in terms of when Royal Assent may be likely. The requirement to establish HealthWatch as an organisation does form part of the Bill and therefore it will be necessary to await Royal Assent and

commencement of the relevant provisions before completing the procurement exercise in order to ensure that all the relevant statutory requirements and functions, are met. Regulations are proposed which will set out the membership of Health Watch.

- 5.2.2 The new HealthWatch support contract will need to be procured in accordance with the requirements of the Council's contract standing orders, EU procurement Directives and associated UK Regulations. The indicative timetable indicates adherence to the necessary processes and legal advice should be sought as appropriate.

Lawyer Consulted:
19/12/2011

Elizabeth Culbert and Sonia Likhari

Date:

Equalities Implications:

- 5.3. In relation to the extension of contract for the LINK, we would recommend that an EIA is carried out to consider the potential impact of the transition to HealthWatch. Once Cabinet approval has been granted for this proposal an EIA will be completed to inform the procurement process. This will specifically ensure that as many potential organisations as possible are identified that are able to address the needs of the diverse demographic of Brighton and Hove.

Sustainability Implications:

- 5.4 The setting up of a local HealthWatch will fall within the City Council's Corporate plan (2011) priority area of creating a more sustainable city. Sustainability of health and wellbeing means improving conditions, which influence health, and promote healthy lifestyles, treating illness, providing care and support and reduce inequalities in health. Within the procurement process of commissioning support for Health Watch, effective evidence of sustainability will need to be integrated into this approach with due regard to the One Planet Framework.

Crime & Disorder Implications:

- 5.5 HealthWatch has a key role in the engagement aspects of the JSNA. Any findings of the wider determinants of health and wellbeing, including crime and disorder, will be fed into relevant city wide strategies via the B&H Strategic Partnership family of partnerships.

Risk and Opportunity Management Implications:

- 5.6. Policy development in this area is undertaken with due regard to the council's approved risk management process. A risk register is being maintained by the Project Team, and will inform project actions and future arrangements.

Public Health Implications:

- 5.7. HealthWatch will be an important mechanism to support the improvements in public health especially through the engagement work of the organisation which will contribute a wider and more effective development of the JSNA which in turn

will enhance the Health and Wellbeing Strategy to ensure that patients and communities have a voice in the development of Health and Wellbeing. HealthWatch will also be a statutory representative on the Health and Wellbeing Board and therefore will enable a much more wider engagement and feedback mechanism to communities to be developed.

Corporate / Citywide Implications:

- 5.8.1 This commission supports two of the council's corporate priorities, tackling inequality and engaging people who live and work in the city. Local HealthWatch will act to promote the voice of local service users and carers in the commissioning of services and, in doing so, champion equality of health and care access and provision. The chair of a Local HealthWatch organisation will have a seat on the local authority health and wellbeing board ensuring there is a route to influence decisions about local service provision.
- 5.8.2 The commission of HealthWatch is being lead by the Communities and Equalities Team to ensure the work supports implementation of the Community Engagement Framework and makes links with other commissions and engagement projects aimed at representation, engagement and reducing inequality. As part of this work the Communities and Equalities Team are in discussions with the Clinical Commissioning Group concerning opportunities to either align or joint commission HealthWatch and the new patient engagement arrangements for the city.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The way that HealthWatch is organised is defined by national government legislation therefore there are no alternative options at this stage.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 That the recommendations are accepted in order to enable this Council to meet its forthcoming statutory duties and comply with European Procurement rules.

SUPPORTING DOCUMENTATION

Appendices:

1. None

2.

Documents in Members' Rooms

1. Not Applicable

2.

Background Documents

1. Health and Social Care Bill (2011)

2.