

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 20th August 2012
Report of: Lorraine Butcher, Strategic Director Children, Families & Adults
Subject/Title: Healthwatch
Portfolio Holder: Cllr Janet Clowes (Health & Adult Social Care)

1.0 Report Summary

- 1.1 It is an obligation under the Health and Social Care Act 2012 for local authorities to set up a new organisation in their areas known as Local Healthwatch.
- 1.2 This will be an independent consumer champion for health and social care with responsibilities for monitoring and scrutinising services as well as providing advice and signposting. This will replace the Local Involvement Network (LINK) which will cease to exist.
- 1.3 As required by Government guidance, Cheshire East Council and partners have conducted a consultation to understand how Healthwatch can best be delivered according to the priorities of the people of Cheshire East.
- 1.4 Procurement now needs to take place to set up a Local Healthwatch according to these specifications.

2.0 Decision Requested

- 2.1 That Cabinet endorses the Cheshire East Local Healthwatch consultation. Note: this report will be circulated separately before the Cabinet Meeting.
- 2.2 Members agree that a selection process be held for a Local Healthwatch Board which Members are requested to support.
- 2.3 That a procurement and tendering exercise is started now to set up and deliver Local Healthwatch in the Cheshire East Council area.
- 2.4 That Members note that the value of the contract for this service is likely to require a Key Decision as defined by the Council's Constitution, which will be determined once the overall funding has been confirmed by the Department of Health later in 2012. The contract length would be for an initial 2 years from April 2013.

- 2.5 At least two Members are identified to take part in the selection/interview process for a Local Healthwatch support organisation.
- 2.6 Members agree that a representative from the Local Healthwatch should sit on the Health and Wellbeing Board (in both shadow and full form) to provide an additional channel for understanding the views of health and social care customers. This is as set down in the Health and Social Care Act 2012.
- 2.7 That the Local Healthwatch does not take on the Independent Complaints Advocacy Service and instead this is procured separately.

3.0 Reasons for Recommendation

- 3.1 These recommendations are designed to achieve the following purposes:
- 3.2 That a Cheshire East Local Healthwatch will be set up and will be able to deliver on its statutory responsibilities, which come into force in April 2013.
- 3.3 The new Local Healthwatch will be an important voice in Cheshire East, able to influence decision making and to provide information and advice to local people in a way appropriate to their needs.
- 3.4 The contract length is initially for 2 years as the first year will be DH funded via the Learning Disability and Health Reform Grant, allowing sufficient experience to be gathered before seeking a more long term arrangement. There has been no confirmation that the funding will continue beyond the first year, although it is likely under the Government's transfer of services, that funding will continue beyond year one. Should funding cease in the second year it may be necessary to terminate the contract and re-evaluate the basis of provision of this statutory service.
- 3.5 One of the requirements of the legislation is to establish a local Independent Complaints Advocacy Service as a specialist service which is best delivered by an organisation already providing advocacy rather than a new Healthwatch organisation, which would take time to develop the additional skills that already exist elsewhere in the community/marketplace. Officers will review this decision during the lifetime of the initial Healthwatch and Independent Complaints Advocacy contracts.

4.0 Wards Affected

- 4.1 All affected as it is a requirement of Local Healthwatch to consider all services within social care and other relevant Council services, particularly those in Health and Wellbeing.

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 Net Carbon Reduction – No reported implications
- 6.2 Health – these proposals are consistent with developing the role of the Council in supporting and improving the health and well-being of its population. These proposals support statutory obligations as noted

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 Funding for the Local Healthwatch is provided for 2013 – 14 by the Department of Health. This has not yet been disclosed (see 7.3.2 for details). We anticipate that the funding will be made up of transferred funding from the Department of Health, existing Council funding and continuing funding from the PCT/CCG. Transition monies from the Department of Health already received for 2012/13 of £19k will be used for the initial Healthwatch set up. Healthwatch is required to deliver statutory duties and as a Council we are accountable to deliver these.
- 7.2 The Government has identified that £85k will be provided to the Council to procure NHS independent complaints advocacy.
- 7.3 Funding
 - 7.3.1 The only funding identified to date and provided for 2012 – 13 is £19k from the Department of Health (DH). This is for start up costs only and has been ring-fenced by the DH as a formal notification.
 - 7.3.2 Funding for 2013 – 14 and beyond will be identified by the DH and notified to CEC in the autumn of 2012 (Oct – Nov).
 - 7.3.3 Funding for 2013 – 14 will be provided by the DH and will be paid via the Learning Disability and Health Reform Grant. This money is not ring-fenced or the allocation formally notified by the DH and therefore the grant will need to be formally allocated to Healthwatch by CEC.
 - 7.3.4 As the funding for Healthwatch will not be confirmed until Oct – November 2012, recruitment to the posts within the organisation and the value of the contract to be let cannot be confirmed until funding has been notified to and allocated by CEC.
 - 7.3.5 Healthwatch will have additional duties to the current LINK. The base budget for 2013-14 is anticipated to include at least the current LINK value with an additional amount from the PALS (Patient Advisory Liaison Service) signposting element.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Health and Social Care Act 2012 requires local authorities to have a local Healthwatch organisation in their area from April 2013, however it allows flexibility to choose how the service is commissioned.
- 8.2 In addition, local authorities will have to provide an advocacy service to people who wish to make a complaint about their experience of the local NHS from April 2013. Local authorities will have the responsibility to commission the service from any provider including the local Healthwatch, although it can be entirely separate.
- 8.3 A consultation has been carried out in respect of these proposals. Case law states that consultation must comply with four elements:

(1) It must be at a time when proposals are still at a formative stage

(2) It must give sufficient reasons for any proposal to permit of intelligent consideration and response

(3) Adequate time must be given for any consideration and response

(4) The result of the consultation must be conscientiously taken into account in finalising any proposals

Members should satisfy themselves that the consultation has been appropriately conducted. Furthermore members need to be fully apprised of the results of the consultation and take these results into account when making final decisions on the proposals in this report.

- 8.4 Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty as follows:

“A public authority must, in the exercise of its functions, have due regard to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it..”

Local Authority decision makers must consciously address their minds to the public sector equality duty when making decisions and members need to ensure that they are satisfied that they have sufficient information available to them to comply with this duty. An Equality Impact Assessment has been carried out by officers in respect of the proposals in this report and members

should have access to this document. This document will be circulated separately before the Cabinet Meeting.

8.5 In order for the Council to appoint service providers by April 2013 two procurement exercises are required. Given the lack of certainty in relation to the value of the contracts and the funding this is problematic. This report refers to these being key decisions and working on the assumption that the contracts will exceed EU Procurement Thresholds fully compliant tendering exercises are required that will take between 6 – 9 months (depending on the value and the type of process).

8.6 It is imperative that the procurement processes are initiated as soon as possible to achieve the deadlines.

8.7 Commissioning officers should liaise with legal to determine if there will be any TUPE implications in relation to the current arrangements with LINKs.

9.0 Risk Management

9.1 Any non-delivery of Local Healthwatch would mean the Council was failing to meet its legal requirements as defined by The Health and Social Care Act (2012). The council has a legal obligation to have in place a functioning Healthwatch by 1 April 2013.

9.2 Risk Management

9.2.1 Risks will be managed through the procurement process in accordance with best practice procurement principles.

9.2.2 A risk log has been developed to mitigate risks associated with the project and the procurement process.

9.3 Transition Risks

9.3.1 There is a risk that due to job insecurity that current members of staff at the LINK may seek alternative employment and we lose their knowledge and expertise

9.3.2 We are not able to mitigate fully against 9.3.1 from the procurement issue as noted in 7.3.4.

9.3.3 The start up costs for Healthwatch in Q4 2012–13 are not yet known but £19k has been allocated (as noted in 106 below).

10.0 Background

10.1 Cheshire East Council organised and led a consultation from 22 May-31 July 2012 with the remit of informing people about the creation of Healthwatch and their views / thoughts on how it should evolve.

Measures included three consultation events (attended by 162 people), eight town centre visits, seven focus groups, an online and paper questionnaire available through a range of sources (290 completed to date). The full report for this consultation is currently being written.

- 10.2 The consultation provided essential intelligence to be used in writing a service specification. The specification will detail the essential and desired criteria in the establishment and recruitment to an organisation to meet the needs of all of the people of Cheshire East.
- 10.3 Key findings so far include:
- The Healthwatch Board should be recruited via a selection process
 - That advice/signposting should be provided to the public via a website and telephone helpline.
 - Drop-in advice desks should be considered in locations across Cheshire East.
- 10.4 We have been working on the development of Healthwatch since November 2011 via the Healthwatch Transition Steering Group. This consists of stakeholders from social care, health and the voluntary sector as well as officers of Cheshire East Council and LINK.
- 10.5 Our primary goal is to have a Local Healthwatch procured by January. This will enable it to be fully operational with any issues ironed out by the formal launch in April 2013, as required by Government.
- 10.6 £19k has been allocated for start up costs for 2012–13 for Healthwatch. We do not anticipate at this stage that additional costs will be required for 2012–13 for Healthwatch. However as the tender is likely to be awarded in December 2012, we will be better informed of the full costs for 2012–13 (and especially Quarter 4) at this stage.

11.0 Complaints Advocacy

- 11.1 The Government has left it up to Local Authorities to determine whether independent complaints advocacy should be delivered by the Local Healthwatch or should be procured separately. This recognises the fact that Complaints Advocacy is a specialist service which may require a different model of delivery.
- 11.2 At the present time in England, this function is contracted on a national basis by the DH with the Carers Federation.
- 11.3 Preliminary investigations have already taken place in Cheshire East to look at a joint contract with other NW local authorities. The rationale for this joint approach is to look at economies of scale and resource efficiency, as well as knowledge sharing.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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