

REPORT OF THE DEPUTY LEADER, NOTTINGHAMSHIRE COUNTY COUNCIL**PROCURING HEALTHWATCH NOTTINGHAMSHIRE****Purpose of the Report**

1. This report seeks approval to procure a Healthwatch Nottinghamshire provider; a separate NHS complaints advocacy service and seeks delegated decision making authority to enable a procurement exercise to commence and the contract(s) to be awarded within the timetable available to fulfil statutory requirements.

Information and AdviceBackground

2. The Government's health and social care reforms are centred on the fundamental principle that patients and the public must be at the heart of everything health and social care services do. As part of this, the Health and Social Care Act 2012 establishes Healthwatch England (HWE) at the national level and requires local authorities, with social care responsibilities, to establish Local Healthwatch (LHW) in their areas.
3. Healthwatch England (HWE) will be set up from 1 October 2012 and will be a committee of the Care Quality Commission (CQC). It will:
 - provide leadership, guidance and support to LHW organisations.
 - be able to escalate concerns about health and social care services raised by local Healthwatch to the CQC (to which the CQC will be required to respond)
 - provide advice to the Secretary of State, NHS Commissioning Board, Monitor (the Independent Regulator of NHS Foundation Trusts) and English local authorities
4. Best practice guidance from HWE to LHW is expected to focus on areas such as leadership and governance as well as quality standards and performance outcomes. A document 'Your Visual Brand Guidelines for Local Healthwatch' has been published and contains a national logo for all Healthwatch organisations. In line with the guidance, Nottinghamshire's LHW will be known as 'Healthwatch Nottinghamshire.'

5. Owing to delays in the passage of the Act, the timetable for Healthwatch implementation has slipped on a number of occasions and the overall timetable is now very tight and not without uncertainty. In order to have a LHW organisation in place by 1 April 2013, in line with its statutory duty, the County Council must commence a procurement exercise by early October 2012. However, secondary legislation is not expected until October 2012; guidance from HWE will not be issued until late Autumn at the earliest; and provisional funding allocations for 2013/14 will not be confirmed until late 2012 / early 2013. This will mean that the service specification for Healthwatch Nottinghamshire will need to refer to these anticipated developments and necessitate flexibility from potential providers in order that any future requirements can be accommodated.

Local Healthwatch Function

6. At the local level, current arrangements for Local Involvement Networks (LINKs) will cease on 31st March 2013. LINKs were established in 2008 as an independent network representing the views of users of local health and social care services to commissioners. The LINK is supported by a host organisation which, in Nottinghamshire, is the Carers' Federation.
7. Healthwatch Nottinghamshire will continue to have the same powers and obligations as LINKs, which are:
 - A consumer voice and influence role – engaging with and representing the views of people with health and social care commissioners and providers.
 - A quality monitoring role - including powers to 'enter and view' places of service provision and make recommendations accordingly
8. The Act makes provision for LHW to have some additional responsibilities which include:
 - The provision of, or signposting to, an independent complaints advocacy service for individuals who require some support progressing a complaint about NHS services.
 - The ability to feed up local views on health and social care to HWE in order that a national viewpoint about issues can be presented.
 - A seat on the local Health and Wellbeing Board (HWPB), in order to influence local decisions regarding health and social care.
 - The provision of an independent information and signposting service, on health and social care locally.
9. Under the requirements of the Act, Healthwatch Nottinghamshire will need to be set up as an independent entity that will decide its own priorities and work programme.

Local Healthwatch Organisational Form

10. In terms of organisational form, the Act requires that LHW is a 'body corporate' and a social enterprise. It will be able to employ staff and sub-contract statutory functions. According to the Department of Health (DH) for the purposes of LHW a

body is a social enterprise if 'if a person might reasonably consider that it acts for the benefit of the community in England.' Each LHW organisation will need to demonstrate how it is accountable to the community it serves and have a strong involvement of laypeople and volunteers.

11. It is intended that the procurement exercise for Healthwatch Nottinghamshire will require the provider to establish a social enterprise for that purpose. In this way, the organisation will be able to have its own discrete governance arrangements which accord with the spirit of the Act. In line with stakeholder feedback and the requirement for LHW to be an independent organisation, it is intended that the County Council, in procuring an organisation to establish Healthwatch Nottinghamshire, will not prescribe the legal form of the organisation (which could be a Charity, Provident Society, Community Interest Company etc) or the governance arrangements beyond that set out in the legislation.
12. Rather it is proposed that the procurement documents set out the key characteristics and/or attributes that it requires the organisation and its governance arrangements to adhere to. These would include a requirement for the provider to demonstrate how Healthwatch Nottinghamshire governance arrangements will be designed to promote local democracy and accountability.

The Development of Healthwatch Nottinghamshire

13. A Working Group has been established to advise the Council in respect of the development of the LHW service specification and to collaborate to ensure a smooth transition to the new arrangements. The Working Group comprises representatives from the County Council; Primary Care Trust (PCT); Clinical Commissioning Groups (CCGs); the LINK; the LINK host; and the voluntary and community sector (through the Nottinghamshire Association for Voluntary Organisations).
14. Seven 'Shaping Local HealthWatch' stakeholder events were held across the districts and boroughs of Nottinghamshire in July. The findings of these events have been captured in a report which has been posted on the Healthwatch Nottinghamshire web page on the County Council's web-site. From these events a vision for Nottinghamshire Healthwatch has emerged which is that:
15. *Healthwatch Nottinghamshire will reach out to the people and communities of Nottinghamshire and will use the knowledge and experiences of its service users and the voice of communities to bring about integrated improvements in health and social care services for all. It will ensure individuals understand their choices regarding health and social care services and feel empowered when using those services.*
16. *It will be:*
 - *Well led, professionally managed and organised;*
 - *Built on existing knowledge and expertise, using partnerships and collaborations to provide high quality services that reach out across the whole of the County;*
 - *Well known, independent and accessible to everyone; and*

- *Influential, respected and trusted by local people, decision-makers and service providers*

17. At the time of writing and as follow-up to the stakeholder events, the County Council is running a survey to gather further views on the Healthwatch Nottinghamshire vision and other aspects of the service. The Nottinghamshire Citizens' Panel has been asked to complete the survey, which has also been made more widely available on-line and through libraries and customer contact centres across the County.

Procurement Approach

18. The outcomes of the stakeholder events and survey, which closes on 7 September 2012, will inform the service specification for Healthwatch Nottinghamshire which will form part of the Invitation to Tender (ITT). It is proposed the ITT be issued on 1 October 2012, in order to have a provider in place and operational from 1 April 2013. A procurement timetable has been developed the key milestones of which are set out below:

- Invitation to Tender issued – 1 October 2012
- Deadline for submission of Tenders – 29 November 2012
- Evaluation of Tenders – December 2012
- Contract Award (Contract Award Notice published) – January 2013
- Mobilisation period – January – March 2013
- Anticipated contract start date - 1 April 2013

19. A market sounding event with potential providers of Healthwatch Nottinghamshire will be held on 4 September 2012. This has been preceded by a series of generic 'Tender Ready' events held across the County in July to generate market interest in bidding for County Council contracts and provide an understanding of Council procurement processes.

20. The service specification for Healthwatch Nottinghamshire will be designed to set out clear principles, standards and outcomes whilst allowing potential bidders for the contract flexibility and scope to design the most innovative, effective and creative way to provide a service that adheres to those principles.

21. The Healthwatch Nottinghamshire tender opportunity will be open to a stand alone organisation or to a group of organisations tendering as a consortium. If a consortium is tendering for the contract(s) the County Council will require that one of the consortium members is the lead organisation that it will engage with for contract management purposes.

22. It is proposed that the duration of the contract for Healthwatch Nottinghamshire will be for 3 years to 31 March 2016, with an option to extend for a further 4 years. This is in keeping with the approach being taken by other local authorities.

NHS Complaints Advocacy

23. Clause 185 of the Health and Social Care Act transfers a duty to commission independent NHS complaints advocacy services from the Secretary of State to individual local authorities with social care responsibilities. Currently the DH directly commissions these services from the Independent Complaints Advocacy Service (ICAS), which is provided by three suppliers across England with the Carers Federation providing services in the East Midlands.
24. ICAS is a free, client-centred, flexible service that empowers anyone who wishes to resolve a complaint about healthcare commissioned and/or provided by the NHS in England. It is a specialised service and the key roles include:
- Helping safeguard the rights of clients as set out in both health policy and law;
 - Empowering clients to self-advocate as far as they are able;
 - Supporting clients to get their views heard;
 - Supporting clients in seeking resolution to issues which concern them; and
 - Using client experiences to inform service development in the NHS
25. The Act requires that local authorities have commissioned an NHS complaints advocacy service for their areas to be in place from 1 April 2013. It does not require this service to be commissioned as part of LHW but, where that is not the case, LHW has to signpost to it and receive complaints information from it.
26. Within adult social care, local authorities are currently expected to provide a range of advocacy services. The County Council, Nottingham City Council, NHS Nottingham City, NHS Nottinghamshire County and NHS Bassetlaw have jointly commissioned advocacy services for both City and County areas. These advocacy services are delivered by POHWER (a registered charity formed in 1996 to provide advocacy services) under a 3 year contract to 31 March 2015 with an option to extend for a period of a further 4 years. POHWER are also one of the three national providers of the current ICAS service under contract to the DH.
27. Subject to the satisfactory conclusion of negotiations with POHWER, it is proposed that independent NHS complaints advocacy service is delivered as part of a suite of advocacy services via a variation to the existing advocacy contract. Legal advice has been sought and it is considered that because of the localised nature of the service and the flexibility built into the original advocacy contract, this proposed approach is legitimate.
28. By delivering the service through these arrangements, rather than as part of Healtwatch Nottinghamshire it is considered that risk will be minimised and the following benefits will be derived:
- Improved customer access through a single point of access for all advocacy services.
 - Improved customer journey through the provision of an effective assessment of an individual's needs at the point of contact and effective referral for people who may require the support of more than one advocacy service.
 - Integrated information and advice around making an NHS / social care complaint, including access to a range of web based support such as self help information, template letters and 'how to' guides and factsheets.

Other Options Considered

29. Under the Health and Social Care Act (2012) the County Council is required to commission an independent Local Healthwatch organisation to be in place by 1 April 2013. The Council is prohibited under the Act from delivering Healthwatch itself.
30. Whilst it would be possible for the Council to prescribe the legal form of Healthwatch Nottinghamshire and its governance arrangements (for example tightly defining the Board make-up) it is considered that this would be likely to constrain the market and would not be in keeping with the views of stakeholders.
31. Tendering for a Healthwatch Nottinghamshire contractor is considered to be the most viable option to comply with the County Council's Financial Regulations and European Public Procurement Regulations and, at the same time, secure 'best value'.
32. There is an option to include NHS complaints advocacy in the tender for Healthwatch Nottinghamshire or, as a short term measure, to commission it via a East Midlands regional consortium approach being led by Derby City Council. However, this is a specialist service and it is considered that the preferred option, cited in the report, will provide better outcomes in terms of the quality of service to the public and risk minimisation.

Reason/s for Recommendation/s

33. The County Council has a duty and commitment to obtain 'Best Value' in services delivered.
34. Stakeholders have indicated that Healthwatch needs to provide innovative ways to gather and include their views. Tendering will maximise opportunities for creativity and innovation in the delivery of Healthwatch Nottinghamshire.
35. Procuring the NHS complaints advocacy service separately from Healthwatch Nottinghamshire is considered to give the best possibility of minimising risk and providing a strong, integrated professional advocacy service for citizens that complements the overall Healthwatch vision.
36. The timetable for procuring and establishing Healthwatch Nottinghamshire is tight. It is for this reason that Policy Committee is asked to approve delegations to enable the service specification to be signed off and the contract awarded as well as to allow action to be taken which is considered necessary to achieve the required outcomes set out in this report.

Statutory and Policy Implications

37. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below.

Financial Implications

The allocation of funding for Healthwatch Nottinghamshire will consist of the existing LINK budget (which will in future come from the Department of Communities and Local Government (Business Rates Retention Scheme)) plus funding to cover the additional Healthwatch duties set out in paragraph 8. The source of the additional funding element is not yet known. Funding will not be ring-fenced.

Although the actual allocations will not be known until late 2012 / early 2013, indicative allocations have been set out in a Healthwatch factsheet issued by DH in June 2012. This indicates that the County Council will receive the following amounts:

Healthwatch Function	Indicative Allocation (as at June 2012)
Existing funding allocation for the LINK	£312,000
Funding that has to date supported the Patient and Liaison Service (PALS) operated by each Primary Care Trust (PCT)	£170,434
Total	£482,434

It is proposed that 90% of this indicative funding is used as the basis for tendering the Healthwatch Nottinghamshire contract with an ongoing percentage (10%) being retained by Nottinghamshire County Council for contract management costs and for contingencies. This would mean an available budget for Healthwatch Nottinghamshire of £434,419 per annum, based on current indicative allocations.

The procurement exercise will be designed to ensure that the County Council will not be exposed to risk should the final grant level be less than the current indicative allocations given that there will not be an agreed final budget for Healthwatch Nottinghamshire until after the contract has been tendered. Prospective bidders will be made aware of this and will be expected to demonstrate the ability to scale up / down their service delivery according to available resources.

One-off transition funding of circa £48,000 is being provided by the DH in 2012/13 to facilitate set-up costs of Healthwatch Nottinghamshire and it is proposed that this amount is made available as part of the procurement exercise where it is demonstrated the resources are needed.

According to the DH's funding factsheet on NHS complaints advocacy (published June 2012), actual funding for the provision of that service is still to be confirmed but, based on the provisional summary of funding to transfer to local authorities, Nottinghamshire County Council would receive £211,440 for 2013/14. As with Healthwatch funding, funding for NHS complaints advocacy will not be ring-fenced and will not be confirmed until late 2012 / early 2013.

It is proposed that the indicative allocation of £211,440 be used as the maximum budget for commissioning an NHS complaints advocacy service in line with the approach set out in paragraphs 23 – 28. It is anticipated that scale economies may be realisable, and proposed that any savings arising are held in contingency for the

NHS complaints advocacy service or for Healthwatch Nottinghamshire in order to mitigate against potential reduced funding allocations / increased demand for services over time.

Equalities Implications

The new Healthwatch Nottinghamshire organisation will be a body corporate and will have public sector duties and responsibilities including compliance with the Equality Act (2000). Specific outcomes, with performance measures, will be set out in the service specification requiring Healthwatch Nottinghamshire to undertake and publish an equalities impact assessment on an annual basis.

The specification and tender process are being informed by stakeholder contributions. A equality impact assessment is underway and will be completed to coincide with the release of the tender documentation.

The model for Healthwatch Nottinghamshire will maximise the opportunity for every Nottinghamshire citizen to take part and have their voice heard and will actively engage and involve individuals, community groups, the seldom heard and disadvantaged groups.

RECOMMENDATION/S

- 1) It is recommended that Policy Committee
 - a. Agrees to the procurement of a Healthwatch Nottinghamshire in line with the approach and timetable set out in this report
 - b. Agrees to the procurement of an NHS complaints advocacy service in line with the approach and timetable set out in this report.
 - c. Delegates to the Corporate Director for Policy, Performance and Corporate Services, in consultation with the Deputy Leader of the County Council, the decision to sign-off the service specification for Healthwatch Nottinghamshire, the decision to award the contract and to determine the terms and conditions upon which the contract will be awarded, in view of the tight timelines described in the report,
 - d. Delegates to the Corporate Director for Policy, Performance and Corporate Services, in consultation with the Deputy Leader of the County Council, the ability to take action which is considered necessary to achieve the outcomes outlined in this report.

County Councillor Martin Suthers
Deputy Leader
Nottinghamshire County Council

For any enquiries about this report please contact:

Caroline Agnew
Programme Manager
Tel: 0115 9773760

Constitutional Comments (SG 22/08/2012)

38. The Committee is the appropriate body to decide the issues set out in this Report.

Financial Comments (MA 28/08/12)

39. Subject to final allocations, the financial implications are as detailed in the report, and will need to be included in the 2013/14 budget to be approved by Full Council in February 2013.

Background Papers

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The Health and Social Care Bill (2012) – HM Government

Healthwatch Factsheet – Funding (June 2012) – LGA & DH

Healthwatch Factsheet – Independent Complaints Advocacy Service (June 2012) – LGA & DH

Your Visual Brand Guidelines for Local Healthwatch (July 2012) – DH

Electoral Division(s) and Member(s) Affected

All