

TELFORD & WREKIN COUNCIL

CABINET – 29 MARCH 2012

LINK and HEALTHWATCH TRANSITION

REPORT OF ASSISTANT DIRECTOR – SOCIAL CARE SPECIALIST

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 This report provides information about the new responsibilities that will be placed on the Council by the Health & Social Care Bill, in respect of Healthwatch, subject to the Bill's passage through parliament and describes the functions of a local Healthwatch.
- 1.2 It sets out the procurement process for a local Healthwatch, the high level options for Healthwatch organisation and the interim arrangements to support LINK through 2012/13 given the announced delay in Healthwatch implementation to April 2013

2. RECOMMENDATIONS

2.1 Members note new responsibilities that will be placed upon the Council to commission a local Healthwatch subject to the passage of the Health & Social Care Bill

2.2 Members support the preferred option of developing a T&W specific Healthwatch, working closely with T&W LINK and other stakeholders, to build on the Pathfinder proposal

2.3 Members support the proposed interim support arrangements for T&W LINK

2.4 Members delegate responsibility to the Assistant Director - Care & Support in consultation with the Lead Cabinet member and the Assistant Director – Law, Democracy & Public Protection to award the contract in respect of NHS Complaints Advocacy

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	<ul style="list-style-type: none"> - Improved lives for all - Vulnerable children and adults are protected
	Will the proposals impact on specific groups of people?	
	Yes	The proposals impact on people of all ages who use health services and more specific groups of patients and service users who receive on-going support through or for part of their adult life
TARGET COMPLETION/DELIVERY DATE	<i>April 2013 (see key milestones in report)</i>	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	<p>The Council currently receives funding through the formula grant to commission host support for our local LINK provided by Staffordshire University. The Council's base budget for funding this service is £114k per annum. This funding is not ringfenced and will continue to be channelled through the formula grant allocation. The Department of Health will allocate additional ongoing funding to local authorities for the expanded HealthWatch functions through the Learning Disabilities & Health Reform Grant from monies currently given to the NHS to fund their Patient Advice and Liaison Services (PALS) and Independent Complaints Advocacy Service (ICAS). Exact amounts of additional funding will be announced at the end of 2012. However, a minimum additional allocation of £20,000 has been established by DH.</p>
LEGAL ISSUES	Yes	<p>The local Healthwatch body will be procured by the Council in accordance with its Financial Regulations and Contract Procedure Rules.</p> <p>In respect of interim support arrangements (see paragraph 4.20 et</p>

		seq) staff will be transferred upon existing terms and conditions of employment The Health & Social Care Bill is still being debated in Parliament and may be subject to further change before it is enacted.
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Any other risks and opportunities will be appropriately managed and reported if necessary.
IMPACT ON SPECIFIC WARDS	No	Borough-wide impact

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 Healthwatch will assume responsibility for existing Local Involvement Network (LINK) functions and assume new responsibilities. Local Authorities will have a statutory responsibility for commissioning Healthwatch. A previous report to Health & Wellbeing Board and Cabinet set out a set of principles for Healthwatch which are attached as Appendix 1
- 4.2 Recent statements of intent from the Department of Health confirm that Healthwatch:
- will be the independent consumer champion for the public-locally and nationally – to promote better outcomes in health for all and in social care for adults.
 - will be representative of diverse communities. It will provide intelligence – including evidence from people's views and experiences – to influence the policy, planning, commissioning and delivery of health and social care. Locally, it will also provide information and advice to help people access and make choices about services as well as access independent complaints advocacy to support people if they need help to complain about NHS services.
 - will have credibility and public trust through being responsive and acting on concerns when things go wrong, and operating effectively and efficiently.
 - will comprise Healthwatch England and local Healthwatches.
 - Healthwatch England will be a committee of the Care Quality Commission (CQC) – however this is subject to amendments through the parliamentary

process because of some concerns that Healthwatch could be excessively dictated to or be steered by CQC.

- local Healthwatches will be statutory organisations which will be funded through and accountable to local authorities. They will link with Healthwatch England (HWE) for advice and support, and so that they can raise serious concerns with the Care Quality Commission.

What will local Healthwatch look like?

4.3 Local Healthwatch will be a “body corporate” which means that it will have legal authority to carry out its functions and will be subject to the Freedom of Information Act, equalities legislation and the Data Protection Act.

4.4 It will:

- be a community 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.
- be able to enter and view all publicly funded health and social care services either as unannounced spot checks or at agreed monitoring visits. It will report on its findings.
- 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.
- be led by experienced volunteers, equipped to be effective participants, it will also be able to appoint its own staff to carry out specific roles and will operate as an independent organisation.

Healthwatch functions

4.5 There are a number of key functions emerging for local Healthwatch which build on the existing LINK functions. They are:

- Gathering views and understanding the experiences of patients and the public
- Making people’s views known.
- Promoting and supporting the involvement of people in the commissioning and provision of local care services and how they are scrutinized
- Recommending investigation or special review of services via Healthwatch England or directly to the Care Quality Commission (CQC)

- Providing advice and information (signposting) about access to services and support for making informed choices
 - Making the views and experiences of people known to Healthwatch England (and to other local Healthwatch organisations) and providing a steer to help it carry out its role as national champion
- 4.6 Our local Healthwatch will have to meet specific criteria to deliver these functions that will be set out in the service specification (draft service specification – Appendix 2) and the contract that is let with the successful local provider.
- 4.7 In addition to the above functions and the LA's current responsibility to commission Social Care Complaints Advocacy, we will have a new responsibility to commission NHS Complaints Advocacy. This may or may not be commissioned from local Healthwatch.
- 4.8 However, Local Healthwatch will:
- Make arrangements for supporting local people with any complaints they may wish to progress in relation to NHS service provision either through:
 - a directly provided complaints advocacy service; or
 - referral to a third party contracted by the local authority expressly for these purposes
- 4.9 Local Authorities have found themselves in a difficult situation as the legislation has not yet been passed and is unlikely to complete its passage through Parliament until May 2012 at the earliest. Councils were being urged to proceed to plan on the basis of having a local Healthwatch in place by October 2012 until very recently, without any significant national guidance. However the government announced on the 3rd January 2012 that the implementation date for Healthwatch had been put back from October 2012 to April 2013 (having already postponed implementation from April 2012 to October 2012 as a result of the "listening" exercise).
- 4.10 T&W Council in conjunction with our local LINK put in a submission during 2011 to become a Healthwatch pathfinder. This was accepted and the government have just announced that £5,000 will be made available to the Council in 2011/12 to help explore further a vision for our new Healthwatch organisation that will build on the good work already undertaken by our local LINK and develop further a "network of networks" approach through which people's views can be fed into Healthwatch as it evolves. In addition the government have announced funding for Local Healthwatch in 2012/13 – £3.2m nationally, to be allocated locally through the Learning Disabilities and Health Reform Grant to cover costs relating to staff recruitment/training, office set up costs and branding ahead of Healthwatch becoming fully operational from 1 April 2013. However the funding available for 2013/14 and beyond will not be announced until later in 2012.

Healthwatch procurement process.

- 4.11 Work is already underway with T&W LINK and other stakeholders, as part of the T&W Healthwatch Pathfinder, to develop a specification for T&W Healthwatch to meet the new requirements placed on the Council to commission a local HealthWatch and a NHS Complaints Advocacy Service to be operational from the recently announced new date of 1st April 2013.
- 4.12 The recently announced delay in implementation date for local Healthwatch is helpful given the lack of detailed government guidance and the fact that the Council would have otherwise had to commence a procurement process ahead of the Health & Social Care Bill having completed its passage through parliament and release of more detailed guidance.
- 4.13 We will now be working to a revised procurement timetable (See Appendix 3) to develop a detailed specification for Healthwatch over the next 3 months, with an appropriate consultation period built in with LINK and other stakeholders. The specification needs to be agreed by council by early June 2012 to allow a procurement process to be completed by December 2012, allowing 3 months for TUPE consultation and the Healthwatch provider to have everything in place for April 2013.
- 4.14 Health Scrutiny Committee have requested that consultation with the committee be built into the timetable for agreeing the specification of the HealthWatch contract, and officers would support this request. We are planning to undertake a series of consultations as part of the pathfinder developments anyway and we will fit the scrutiny request into this consultation programme.
- 4.15 It is already clear that the preferred option (supported by LINK) is to have two quite separate procurement processes, one for a local Healthwatch and the other for a NHS Complaints Advocacy service running on a parallel basis.
- 4.16 Cabinet on the 22 December 2011 approved delegated responsibility to the Assistant Director of Care & Support, the lead cabinet Member and the Assistant Director Law, Democracy and Public Protection to award the contract in respect of Healthwatch but we will need additional approval for the NHS Complaints Advocacy contract.

High level options for a future local T&W Healthwatch organisation.

- 4.17 In respect of the options for a local Healthwatch provision, officers have considered a number of options as outlined in Appendix 4
- Option 1 – A T&W specific, single Healthwatch organisation (including both the volunteer aspects and paid support staff)
 - Option 2 – A T&W specific Healthwatch organisation (volunteers) and a separate support organisation

- Option 3 – A jointly (with Shropshire County) commissioned Healthwatch volunteer organisation, supported by the same Healthwatch support organisation.
 - Option 4 – A jointly commissioned service consisting of separate local Healthwatches for T&W and Shropshire supported by a single support organisation.
- 4.18 At this point in time officers have not entered into discussions with Shropshire County about the feasibility of a joint commissioned approach and Health & Wellbeing Board on the 14 December 2011 and 22 February 2012 indicated it's preferred option was for a T&W specific solution. This of course would not rule out two local Healthwatches working in close partnership on a number of issues which are of pan T&W/Shropshire interest.
- 4.19 Officers consider either Option 1 or 2 to be acceptable and suggest putting the specification out to tender on this basis. This will allow as much flexibility as possible and encourage providers to respond with solutions which build on the network of networks we have proposed .
- 4.20 On the 1 March 2012 the government tabled amendments to the Health and Social Care Bill to make clear to local authorities, which will be under a statutory duty to commission an effective and efficient local Healthwatch organisation, that they will have some choice over the local organisational form that Healthwatch takes. Whilst having some flexibility key requirements are local Healthwatch organisations:
- must be corporate bodies carrying out statutory functions
 - must be not-for-profit organisations (new)
 - must be able to employ staff and (if they choose) be able to sub-contract statutory functions

T&W LINK interim support arrangements

- 4.21 The Council was responsible for funding and commissioning the support for T&W LINK when it was created. A contract was let with Staffordshire University to provide LINK with paid officer and other organisational support, which was subsequently extended with council approval to 31 March 2012, the original end date set by government for transfer of existing LINK functions to a local Healthwatch organisation.
- 4.22 As a result of the initial delay in implementation to October 2012 our commissioners approached Staffordshire University about carrying on providing support up to this new date, but they have made it clear through formal notification that they will not provide the service beyond 31 March 2012. As a result of the recent announcement, putting back local Healthwatch

implementation to April 2013, we now need to establish new support arrangements for T&W LINK for a 12 month period.

- 4.23 Legal and HR advice has established that there would be TUPE responsibilities (the support service consists of 4 staff, 2 of whom are likely to have TUPE rights) and there are a small number of additional staff undertaking project work on a time limited basis. Council HR officers are liaising direct with Staffordshire University to progress the TUPE arrangements which will need to be concluded in advance of the contract expiry date
- 4.24 Given these unusual circumstances our commissioners have concluded in discussion with legal and HR, that the best option for providing LINK with support in this interim period is for the Council to become the host for 12 months. This will involve a TUPE transfer of staff but on the basis that the staff would TUPE on again to the successful Healthwatch provider. Taking this option will ensure that the work of LINK is not disrupted unduly, with no break in support and ensure that we do not prejudice the outcome of the Healthwatch tender through the selection of a new interim provider, which would take some time anyway.
- 4.25 The contents of this report has been discussed by the shadow Health & Wellbeing Board at its meeting on 22 February and the Board supports the recommendations.

5. PREVIOUS MINUTES

- 5.1 Cabinet Report – 22.12.2011 – NHS Transformation and Implications for the Council

6. BACKGROUND PAPERS

- 6.1 The White Paper, *Equity and Excellence: Liberating the NHS*
- 6.2 Healthwatch Transition Plan – Department of Health – 29 March 2011
- 6.3 Consultation on Allocation Options for distribution of additional funding for local authorities for local healthwatch, NHS Complaints Advocacy.....- Department of Health – 15 August 2011
- 6.4 Analysis of the Consultation on allocation options for distribution of additional funding for Local Healthwatch, NHS Complaints advocacy.....- Department of Health – 8 December 2011
- 6.5 Letter from David Behan, Director General for Social Care to Councils informing of new start date, funding for Pathfinders and start up costs – Department of Health – 3 January 2012
- 6.6 Letter from Lorraine Denoris, National Programme Director – Healthwatch Implementation, informing of support to LAs – Local Government Association – 17 January 2012

- 6.7 Letter from Kasey Chan, DoH Healthwatch Implementation Lead informing of release of Pathfinder support funding – DoH – 2 February 2012
- 6.8 Letter from David Behan, Director General for Social Care, Local Government and Care Partnerships informing of Government amendments to Health and Social Care Bill impacting on Healthwatch – 2 March 2012
- 6.9 Local Healthwatch: A strong voice for people – the policy explained – Department of Health – 2 March 2012

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