

Wiltshire Council

Cabinet

23 October 2012

Subject: Local Healthwatch and NHS Complaints Service

Cabinet member: Cllr John Thomson - Adult Care, Communities and Housing

Key Decision: Yes

Executive Summary

This paper sets out the proposals for Healthwatch Wiltshire building on the work undertaken so far and seeks agreement for the next steps in commissioning both Local Healthwatch and an NHS complaints advocacy service. It sets out the proposed governance and funding for Healthwatch and NHS complaints advocacy to make sure Wiltshire has a representative, effective and value for money local Healthwatch and NHS complaints advocacy service ready to start on 1 April 2013

Proposals

Cabinet is asked to consider and comment on the proposals within the report:

- Approval is granted for officers to explore the preferred approach to procurement of seeking an exemption from competitive tender for the outlined model for Healthwatch Wiltshire (paragraph 41)
- The interim NHS complaints advocacy service is commissioned separately from Healthwatch for one year from April 2013 (paragraph 62)
- The proposed funding levels are agreed (paragraph 54, 55 and 62)
- A Wiltshire specific Healthwatch is developed using a consortium approach with community and voluntary stakeholders (paragraph 16)
- An independent shadow Chairman is appointed by the Leader of the Council, acting under her delegated powers working with the shadow Health & Wellbeing Board to set up the Healthwatch Wiltshire organisation (paragraph 28)
- A shadow Healthwatch Wiltshire is set up if the proposals are approved using the start up funding (paragraph 52)
- An agreement is put in place with Wiltshire Involvement Network (WIN) about the transfer of any reserves to Healthwatch Wiltshire (paragraph 58)

Reason for Proposal

There is a statutory requirement under the Health and Social Care Act (2012) for the Council to commission Healthwatch Wiltshire by April 2013

The Government has not laid down a model for Healthwatch; government policy has been to allow flexibility of organisational form and it is for each local authority to decide the most appropriate commissioning route to meet its particular circumstances and should take this decision in consultation with the local community

Public Consultation has supported the proposed approach of the Council, working with key stakeholder organisations to design a form of Healthwatch that meets the statutory requirements and which builds on the existing local infrastructure in Wiltshire.

Niki Lewis
Service Director, Communities

Wiltshire Council

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Purpose of the report

1. This report sets out the Government's vision for local Healthwatch, the proposed model for Wiltshire and the procurement route.

Statutory duty

2. The Health and Social Care Act (2012) requires Wiltshire Council to arrange for Local Healthwatch to start from 1 April 2013. The Council is also required to commission an NHS complaints advocacy service to start from 1 April 2013.

What is Healthwatch?

3. Healthwatch is a new organisation concerned with strengthening the collective voice of local people and their influence on both health and social care. Local Healthwatch will inform the Joint Strategic Needs Assessment and joint health and wellbeing strategies on which local commissioning decisions will be based through its seat on the health and wellbeing board. Local Healthwatch will have more statutory responsibilities than the Local Involvement Networks (LINK's). In Wiltshire the current Local Involvement Network is known as WIN (Wiltshire Involvement Network) Healthwatch in Wiltshire (to be known as Healthwatch Wiltshire) will assume responsibility for existing Local Involvement Network (WIN) functions and assume new responsibilities. It will be independent from the Council and will be a social enterprise. The Council can decide what form of Healthwatch will best suit Wiltshire, based on local requirements. It will be accountable to the people of Wiltshire, Healthwatch England and also to the Council.

What Healthwatch needs to pay due regard to

4. Healthwatch needs to take into account:
 - The competences, skills and support for people participating in Healthwatch.
 - The NHS's Equality Delivery System and compliance with the Equality Act (2010).
 - The Public Sector Equality Duty

- The priorities identified in the Joint Health and Wellbeing Strategy for Wiltshire and other key strategies for health and social care in Wiltshire.
- Develop strong links to public health in Wiltshire.
- Inform the development of the Joint Strategic Needs Assessment.
- Responsibility for any TUPE implications arising from the new arrangements.

5. It also needs to be:

- Credible,
- Influential,
- Well-known,
- Well-governed,
- Highly competent,
- Sustainable,
- Cost effective,
- Inclusive of wide representation of the population,
- Proactive in recruiting and retaining new members.

The proposed vision for Healthwatch Wiltshire

6. Wiltshire Healthwatch will represent the voice of all Wiltshire's residents in the improvement of local health and care services. Healthwatch Wiltshire will build on what already exists rather than competing with it. It will bring together a range of organisations and individuals to ensure that effective support is in place to enable communities to help improve services in Wiltshire. With its seat on the Health and Wellbeing Board it will have a strong strategic as well as a local presence. Everyone will know what it can do for them. It will be inclusive.
7. We have held several workshops with local groups and stakeholders in Wiltshire which has told us that people want to build on Wiltshire's existing infrastructure for community engagement. Feedback indicated support for:
- Not going out to competitive tender for Healthwatch (95%).
 - Having a single agreement between the Council and a consortium of existing organisations to deliver Healthwatch (53%).
 - Running a shadow Healthwatch up to April 2013 (80%).
 - Commissioning the NHS complaints service separately (71%).
8. Dr Steve Rowlands, Medical Director Wiltshire Clinical Commissioning Group has also considered the vision for Healthwatch Wiltshire and has given his full support.

The proposed approach for delivering the key Healthwatch functions in Wiltshire

9. The following model is proposed for Wiltshire to cover the following three functions: (i) Healthwatch as a consumer champion, (ii) Healthwatch as a

gateway to information and (iii) a separate contract for an NHS complaints advocacy service.

Healthwatch as a health and social care champion

10. As a consumer champion, the role of Healthwatch is to influence the commissioning of health and social care in Wiltshire.
11. At the strategic level in Wiltshire, Healthwatch will be represented on the Health and Wellbeing Board, Clinical Commissioning Group (CCG), Adult Social Care Commissioning Board, and inform the work of the Health Overview and Scrutiny Committee (HOSC). There will be close links to public health and in the development of the Joint Strategic Needs Assessment (JSNA).
12. At the national level, Healthwatch will have a direct line of communication with Healthwatch England which starts October 2012. Healthwatch England will be a statutory committee of the Care Quality Commission (CQC) strengthening the links between patient/public voice and regulation. Healthwatch England will use information and knowledge from Local Healthwatch to ensure that people's views have influence at the national as well as the local level. It will also provide leadership and support to Local Healthwatch.
13. Within Wiltshire, Healthwatch needs to build a wide participative network for health and social care that is open to the whole population in the county and makes the most of existing infrastructures and networks.
14. In response to local intelligence and evidence of problems and also as a regular checking system Local Healthwatch will be able to exercise the power to enter and view all publicly funded health and social care services either through unannounced spot checks or as scheduled monitoring visits. There will also be a requirement for commissioners and providers to respond to any request for information within 20 days and where service providers receive a report or recommendation acknowledgement of the report or recommendation must be made and an explanation (in writing) of any action it intends to take in response (or if no action is to be taken).
15. Feedback from local consultation on Healthwatch shows strong support for Healthwatch to build on the existing infrastructure for community engagement in Wiltshire.
16. The proposed organisational structure for Local Healthwatch in Wiltshire consists of developing a consortium made up of voluntary and community sector groups including the User Led Organisation's (ULO's) and the current Wiltshire Involvement Network (WIN) members and forming a new local social enterprise. These organisations already operate in a wide variety of settings and with a wide diversity of existing users which provides advantages for Healthwatch Wiltshire as follows:
 - Healthwatch Wiltshire will build on what already exists rather than duplicating or competing with it.

- It potentially offers better value for money as existing infrastructures are already in place.
 - It offers better opportunities for intelligence gathering.
 - Healthwatch users will have already developed a relationship and a level of trust with organisations that are part of the network
 - It allows for signposting to specialist organisations for certain user groups.
 - It offers the potential for a very accessible service, using existing voluntary sector knowledge to communicate in appropriate formats and in user friendly venues.
17. To encourage the participation of the voluntary and community sector in Healthwatch, it is proposed that the requirement to participate in Healthwatch is included in any future funding agreements with the Council along with consideration on how these organisations can work in a fully complementary way.
 18. It is also proposed that 'Spice' time credits will be used in Wiltshire to encourage greater voluntary participation in Healthwatch projects, research and events.

Healthwatch as a gateway to advice and information

As a gateway, Healthwatch will provide an information and signposting service about accessing health and social care services and choice in relation to aspects of those services for people in Wiltshire.

19. This will also involve providing information and advice about services outside the county, such as hospitals.
20. There will be a national branding for Healthwatch which can be adapted locally as 'Healthwatch Wiltshire'.
21. Authorities such as Torbay will have a Healthwatch shop. In Wiltshire, subject to discussion with the Community Operational Board's (COB) it is proposed that the Community Campuses could provide a physical location for Healthwatch.

A separate NHS complaints advocacy service

22. Local authorities are responsible for commissioning an independent NHS complaints advocacy service. This will include providing advocacy for people who lack the capacity to speak up for themselves.
23. An independent complaints advocacy service (ICAS) is currently being provided at a regional level through SEAP (Support, Empower, Advocate, Promote) contracted by the Department of Health. In 2011/12 SEAP had 3,936 calls, 12,649 website hits and issued 599 self-help packs across the South region. In Wiltshire 212 direct advocacy cases were taken up. The current contract ends on 31 March 2013 and the Council is responsible for commissioning a service from 1 April 2013.

24. The Council can commission Healthwatch to provide this service directly, or commission another organisation to do it, or ask Healthwatch to commission and manage the contract. Local consultation indicated support (71%) for commissioning this service separately from Healthwatch.
25. To meet statutory requirements, the Council also currently commissions a statutory and generic advocacy service through SWAN Advocacy Network. The NHS complaints advocacy service would sit well within the existing advocacy service, but would require a separate specification because although the skills are similar, it requires specialised knowledge.
26. It is proposed that the Council commissions the NHS complaints advocacy service separately from Healthwatch for a one year interim period. It is also proposed that approval is sought for officers to explore the most appropriate procurement route and that the preferred approach, already agreed as an option by legal, would be to seek an exemption from competitive tender for 12 months. The NHS complaints advocacy service would then be tendered with the generic and statutory advocacy service. The local authority could then secure intelligence about the service and people's needs during 2013 / 14 to inform their approaches to longer term arrangements from April 2014 when the contract for current statutory and generic advocacy provision is due for renewal. It is proposed that advocacy and complaints advocacy for NHS and adult social care are brought together from 2014 under a single provider which could also subcontract specialist services from other providers currently funded by the Council.

The proposed governance of Healthwatch Wiltshire

27. Healthwatch will be a social enterprise provided by a consortium made up of the existing voluntary and community sector with an interest in health and social care. As a corporate body they are able, to employ staff to support Healthwatch, they can also acquire premises, and deliver their own support infrastructure and service delivery functions.
28. This new body would be a membership organisation, and hopefully most, if not all of the main stakeholder groups would wish to be involved. It will be constituted with an appointed Chair and four executive members of the board. A shadow Chair will be subject to a recruitment process undertaken by a panel of members from the shadow Health and Wellbeing Board. There will be a Healthwatch board of a further 20 members to form the consortium who will be invited by the Chair and the Executive Committee to be representative of the voluntary and community sector organisations.
29. Each member will have voting rights. Healthwatch Wiltshire will be represented on boards such as the Health and Well Being Board, Clinical Commissioning Group Board, Adult Social Care Commissioning Board and HOSC by its executive members.
30. Healthwatch Wiltshire will build a wider network of members with both offline and online opportunities to get involved and find out about health and social care issues. An annual report on the performance and outcomes achieved by Healthwatch will be produced.

31. There will be quarterly meetings of the Healthwatch board which will be open to the public and which will link to the timings of the Health and Wellbeing Board and Clinical Commissioning Group Board. The executive members will meet separately in between the board meetings.
32. An annual general meeting (AGM) will take place in mid Wiltshire plus other public meetings during the year in North and South Wiltshire respectively.
33. The Board will have policies and a handbook to explain the governance arrangements which will be made publicly available.
34. Healthwatch Wiltshire will establish sub groups and task and finish groups to undertake specific roles such as enter and view, or to look at specific issues such as the acute trusts.
35. There will be a physical presence in each of the community campuses subject to agreement with the community operation boards.
36. A mechanism for a formal reporting process to each Area Board will be determined in discussion with the Chairs of Area Boards and the Council's portfolio holder for Communities.
37. Local involvement in Healthwatch Wiltshire will be promoted through existing groups and partnerships with an interest in health and social care including community area partnerships.
38. The chief executive of Healthwatch Wiltshire will report directly to the executive members of the Healthwatch Board.

An infrastructure for Healthwatch

39. It is proposed that a small group of salaried core staff provides the following infrastructure support:
 - Advice and information to support people in making choices (via telephone, website, face to face possibly via campus).
 - Signposting (to NHS Complaints Advocacy).
 - Organising and co-ordinating events.
 - Analysis and report writing.
 - Research and support for evidence-based decision-making.
 - Networking and relationship building, for example through online and offline networks and a communications strategy.
 - Newsletters, bulletins, updates, access to information and discussions through the creative use of social media.
 - Community development, facilitation and engagement (use of the Wiltshire Voices approach and other engagement tools)
 - Presentations.
 - Management of volunteers and employees.
 - Budget, performance and programme management.
 - Specialist training for functions such as enter and view etc.

Transition to Healthwatch Wiltshire

40. The current LINK (Wiltshire Involvement Network - WIN) will cease on 31 March 2013. There is a commitment to fund WIN to continue operating up to that date (31 March 2013). One of the key aims of establishing local Healthwatch is to make sure that the very best of the LINK (WIN) is not lost. WIN have been involved at every stage of the process and supports the proposed approach. It is hoped that the current WIN volunteers will transfer their membership across to the local Healthwatch where they will be joined by volunteer members of other voluntary groups with an interest in health and social care. WIN are developing a legacy document/film to transfer their learning and research to the new Healthwatch organisation.

The procurement route for Healthwatch and an NHS complaints service

41. It is proposed that approval is sought for officers to explore the most appropriate procurement route. The preferred approach would be to seek an exemption from competitive tender to establish the Healthwatch model as outlined. For the NHS complaints advocacy service, again exemption from competitive tender be sought for 12 months with options for tendering after this time together with the generic and statutory advocacy service. This approach of seeking exemption has already been agreed as a possible option by legal.

Timeline

42. The proposed timeline for establishing Healthwatch and an NHS complaints service is:
- October Report to Cabinet for key decision.
Procurement route agreed
Provide feedback and updates to key groups
Start commissioning process for complaints service
Start-up funding available
 - November Establish a shadow Healthwatch Board
Schedule 4 meetings/workshops up to April
 - December Confirm arrangements for the ULOs from April 2013
Recruitment for the Healthwatch Board
 - January Training and development for the Board
 - February Funding levels agreed by central government
 - March Agree providers
 - April Start

Environmental and climate change considerations

43. There are no direct implications from the commissioning of either Local Healthwatch or NHS complaints advocacy.

44. The council has to purchase carbon allowances to cover the carbon emissions against any energy bills that it pays. However, as the services will be delivered through the council's own campuses, the impact will be minimal.
45. The council has to report on both building and transport emissions from the course of its direct and contracted services to report on annually in its Greenhouse Gas return. Any fuel consumption relating business mileage through the Healthwatch service will therefore be reported to the council.
46. The impacts of climate change are worse for the most vulnerable groups of our society. Healthwatch will be able to signpost vulnerable people to council services that address issues such as fuel poverty and associated health risks.

Equalities impact of the Proposal

47. There are no direct implications from the commissioning of either Local Healthwatch or NHS complaints advocacy. The introduction of Healthwatch will have a positive impact for all.
48. The Health and Social care Act 2012 places a duty on local authorities to take steps to improve the health and wellbeing of the population of Wiltshire. It will be important that the council takes account of the findings and views of Local Healthwatch as the conduit for public and patient health and social care engagement and ensures that this informs its decision making and also that of its partners through, for example the Health and wellbeing Board on which Healthwatch will be an equal partner.
49. Listening to and acting on the views and findings of Local Healthwatch will help the Council to ensure that the role of improved health and well being is better understood in relation to its priorities of:
 - Tackling inequalities and promoting cohesive communities
 - Not to discriminate in the way we provide services to the public
 - Promoting equality and good relations between different groups

The proposals in this paper have taken account of the need for the new arrangements to engage with vulnerable and hard to reach groups.

Risk Assessment

50. There would be a risk of intervention by the Secretary of State if the Council did not fulfil its statutory obligations.
51. There will be a risk in future years of funding separate advocacy services that are not aligned with Healthwatch Wiltshire

Financial Implications

52. The Department of Health has provided one-off grant funding to Local Authorities in 2012/13 to assist with costs incurred in developing and implementing the provision of Healthwatch from April 2013. The grant funding for Wiltshire Council is £23k. Council's can decide how they use this funding. It is proposed that in Wiltshire, this grant will be used to pay for:
- Training costs
 - Staff recruitment costs
 - Office set up costs
 - Shadow Healthwatch Board
 - Support the transition from the current LINK arrangements to Healthwatch arrangements

Healthwatch Wiltshire

53. Healthwatch Wiltshire will assume responsibility for the existing Local Involvement Network (LINK) functions and assume responsibilities from April 2013. The current LINK, provided by the Wiltshire Involvement Network (WIN) will cease on 31st March 2013. Included in the Council's base budget for 2012/13 is funding for WIN of £120k and there is a commitment to fund WIN to continue operating until 31st March 2013.
54. It is proposed that the existing funding for WIN of £120k will continue for one year to fund Healthwatch Wiltshire from April 2013 to march 2014.
55. In addition, it is anticipated that additional un-ringfenced grant will be provided by the Department of Health to fund the advice and signposting responsibilities of Healthwatch. Provisional figures from the Department of Health indicate that additional grant funding of £85K will be available in 2013/14. However this is still subject to confirmation as part of the overall Local Government Finance Settlement for 2013/14. Therefore, it is proposed that the confirmed additional grant funding be made available to fund Healthwatch Wiltshire in 2013/14.
56. Therefore, the estimated budget available to fund Healthwatch Wiltshire in 2013/14 will be £205k. However this amount will be adjusted in the event that the final grant allocation is different to the indicative allocation.
57. The budget for Healthwatch Wiltshire for future years beyond 2013/14, will be decided as part of the Council's overall budget setting process.
58. The Annual Report for 2011/12 indicates that they currently have reserves of £31k. It is proposed that the Council should reach agreement with WIN that any reserves as at 31st March 2013, should be transferred to Healthwatch Wiltshire.
59. As Healthwatch Wiltshire assumes the functions previously provided through WIN, there may be TUPE implications for staff currently employed to support the provision of those functions. The Wiltshire and Swindon Users' Network

(WSUN) who host WIN, will be responsible for managing these arrangements with the successor body.

NHS Complaints Service

60. As already indicated, the Council commissions statutory and generic advocacy services across Wiltshire, some of which includes joint arrangements with NHS Wiltshire. The current level of funding included within the Council's base budget for 2012/13 is £151k, of which £136k is contracted until 31st march 2014.
61. In addition, it is anticipated that additional un-ringfenced grant funding will be provided by the Department of Health to support the provision of NHS Complaints Services by local authorities. Provisional allocations provided by the Department of Health indicate that additional grant funding of £106k will be made available in 2013/14. However, this is still subject to confirmation as part of the overall Local Government Finance Settlement for 2013/14.
62. It is proposed that an NHS Complaints Service is provided for one year from 1st April 2013, using the additional grant funding from the Department of Health (indicative funding being £106k). From 2014/15, it is proposed that a combined service is brought together under a single provider, providing NHS and social care advocacy and complaints services. The budget for this service will be set as part of the normal budget setting process.

Legal Implications

63. Local authorities will be legally obliged to provide local Healthwatch and commission an NHS Complaints Advocacy Service.
64. The Health and Social Care Act 2012 amends the Local Government and Public Involvement in Health Act 2007 placing a duty on the local authority to make contractual arrangements with a corporate body, to ensure there are the means by which the Local Healthwatch functions are carried out in Wiltshire. The corporate body is required to be a social enterprise which is described as a body which a person might reasonably consider acts for the benefit of the community.

Recommendation

65. It is recommended that:
 - Approval is granted for officers to explore the preferred approach to procurement of seeking an exemption from competitive tender for the outlined model for Healthwatch Wiltshire (paragraph 41)
 - The interim NHS complaints advocacy service is commissioned separately from Healthwatch for one year from April 2013 (paragraph 62)
 - The proposed funding levels are agreed (paragraph 54, 55 and 62)

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Niki Lewis
Service Director, Communities

Background Papers

Background papers relied upon in the preparation of this report:

None