

Brighton & Hove City Council

Adult Social Care & Public Health Sub- Committee

Agenda Item 33

Subject: Re-commissioning of Healthwatch services

Date of meeting: 17th January 2024

Report of: Executive Director of Housing, Neighbourhoods and Communities

Contact Officer: Name: John Reading
Tel: 07517 131 351
Email: john.reading@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The report seeks the approval of the Adult Social Care & Public Health Sub-Committee to re-commission a Healthwatch service for Brighton & Hove.

1.2 The current contract ends on 31st March 2025.

2. Recommendations

2.1 That Committee approves the re-commissioning of the Healthwatch contract and delegates authority to the Executive Director for Housing, Neighbourhoods and Communities to procure and award a three year contract and to grant a two year extension (subject to satisfactory performance).

3. Context and background information

3.1 The Council has a statutory responsibility to have in place a Local Healthwatch service as set out in Part 14 Local Government & Public procurement in Health Act 2007 (as amended by the Health & Social Care Act 2012 and Part 6 NHS Bodies and Local Authorities (Partnership Arrangements; Care trusts, Public Health and Local Healthwatch) Regulations 2012.

3.2 The Council is required by law to establish a contractual agreement (grant or contract) with a social enterprise that delivers Healthwatch activities.

- 3.3 The statutory functions of a Healthwatch service and the high level elements of the required service provision are to:
- Obtain the views of people about their needs and experiences of local health and social care services. Local Healthwatch make these views known to those involved in the commissioning and scrutiny of care services.
 - Make reports and recommendations about how these services could or should be improved.
 - Promote and support the involvement of people in the monitoring, commissioning and provision of local health and social care services.
 - Provide information and advice to the public about accessing local health and social care services and the options available to them.
 - Make the views and experiences of people to Healthwatch England, helping them carry out their role as national champion.
 - Make recommendations to Healthwatch England to advise the Care Quality Commission to carry out special reviews or investigations into areas of concern.
- 3.4 The current contract expires on 31st March 2025. A waiver of the Council's Contract Standing orders was granted in March 2018 to facilitate the direct award of a new two-year contract for Healthwatch services from 1st April 2019 to 31st March 2021 to the existing supplier (Healthwatch Brighton & Hove CiC).
- 3.5 A further waiver was granted in 2020 to facilitate the extension of the two year contract with the existing provider from 1st April 2021 to 31st March 2022. This was to ensure that the delivery Healthwatch services were maintained during the Covid-19 pandemic, to reduce the work impact on Healthwatch staff and volunteers, and to maintain a period of stability whilst the national emergency continued, and future recovery took place.
- 3.6 A three-year direct award contract was awarded to the existing provider (Healthwatch Brighton & Hove CiC) in June 2021 for the period 1st April 2022 to 31st March 2025.
- 3.7 The current service provider has a good reputation in the city, performs well through the contract management reporting, and is well regarded by Healthwatch England. It is expected that this provider will express an interest in the new contract.
- 3.8 The officer recommendation is that a contract is now procured (using the Competitive Procedure with Negotiation process) for an initial period of three years, starting 1st April 2025, with the ability for it to be extended for a further two years (subject to satisfactory performance).
- 3.9 This new process involves publishing a Notice with qualitative selection criteria, which interested bidders need to pass in order to enter the next stage of the tender process. Those who pass the selection process will be shortlisted bidders and offered the opportunity to bid.

3.10 If from the selection process only one bidder is shortlisted then the tender phase is shortened to a negotiation.

4. Analysis and consideration of alternative options

4.1 Contract Length

4.1.1 Option 1: Three (3) + Two (2) years Contract.

This is the preferred option. The proposed route of a 3 + 2 contract allows for stability of delivery, whilst retaining options for change if that becomes necessary.

The total Contract value is estimated to be £893,000 with a Contract length of three (3) years + two (2) years. Therefore, these services fall within the ambit of the 'Light Touch Regime' (LTR) of the Public Contracts Regulations 2015 (PCR). The LTR is the rules the Council must comply with for purchasing social care services and other specific services that exceed the relevant threshold of £630,540. The Council must comply with the rules under the LTR of the PCR 2015, as well as the Council's Contract Standing Orders. Under this legislation, tenders must be published to the market, and follow the rules of transparency, fairness and equal treatment.

4.1.2 Option 2: Five (5) years Contract.

One option is to award a longer contract, for example a 5 year contract from day one. It is, however, possible that the national requirements for Healthwatch may change. Accordingly, this is not recommended as it would make changing the nature of the required delivery more complex.

4.2 Procurement Routes

4.2.1 Option 1 – Modified Competitive Process (with Negotiation) under the LTR

The proposed preferred option is to run a procurement process akin to a competitive procedure with negotiation. This process is least restrictive and will enable the Council to negotiate directly with the provider should only one potential provider pass the initial selection phase. This process is compliant under the LTR of the Public Contract Regulations 2015 and allows for an open and transparent procurement, whilst optimising the value of the service. It is an appropriate route to follow where it is considered that there is a limited market for the services required.

4.2.2 Option 2: Open Tender

One option would be an open tender procurement process. It is a competitive procedure where the tender is published to market and providers are required to bid against pre-defined requirements, without subsequent changes or

negotiations. An evaluation and moderation process of all bidders that pass the selection criteria would be required. This is the least preferred option because there are likely only a limited number of providers that can meet the requirements of the service.

5. Community engagement and consultation

- 5.1 There has been no community engagement or consultation in regard to this report's recommendation. However, if the Committee approves the recommendation, it will be the intention of officers to seek the views on the specification for the new contract with health and social care providers in the city.

6. Conclusion

- 6.1 The Council has a statutory responsibility to have in place a Local Healthwatch service and the current contract expires in March 2025.
- 6.2 Re-commissioning and award of a new contract using the recommended route of a 3 + 2 year contract through the Competitive Process with Negotiation route will offer value for money for the Council and give developmental stability of delivery to the successful bidder.

7. Financial implications

- 7.1 The total estimated contract value is set out at section 4.6 of the report, being £893,000. There is currently permanent recurrent funding within the Communities, Equalities and Third Sector revenue budget of £178,600 per annum for Healthwatch.

Name of finance officer consulted: Mike Bentley Date consulted (29/11/23)

8. Legal implications

- 8.1 The Council is required to arrange the provision of a local Healthwatch service in accordance with the Local Government and Public Involvement of Health Act 2007 (as amended). The statutory requirements of this service are prescriptive and they need to be met by the Council.
- 8.2 A re-procurement of this service must be carried out and an award made prior to the expiry of the existing contract at the end of March 2025 pursuant to the Public Contract Regulations 2015 (PCR 2015). This contract would fall within the Light Touch Provisions of the PCR 2015 as the value of the contract (£893,000 over 5 years) is above the threshold for Light Touch Regime (LTR) services of £625,050. The procedure governing the LTR is set out in Regulations 74 to 76 of the PCR and these rules, such as those on the publication of notices, must be followed. The LTR allows free choice of any procurement procedure, so long as the procurement is carried out on the

basis of equal treatment and transparency. Therefore, the proposed competitive procedure with negotiation is a suitable procurement route.

- 8.3 The Council must also comply with its Contract Standing Orders (CSOs). In accordance with CSO 3.1 contracts above £500,000 must be approved by Committee.

Name of lawyer consulted: Eleanor Richards Date consulted (30/11/23):

9. Equalities implications

- 9.1 An Equalities Impact Assessment will be completed prior to re-commissioning.

10. Sustainability implications

- 10.1 None.

11. Other Implications

Social Value and procurement implications

- 11.1 The contract, when awarded, will contain key social value elements, including the use of volunteers, recruiting local people, ensuring that pro-active work is undertaken to deliver on equality, diversity, and inclusion, including intersectional communities, and payment for staff of the Real Living Wage.
- 11.2 This procurement has been presented to the Lead Member Briefing before Committee.
- 11.3 The Lead Member for Procurement asked for the addition of payment of the Real Living Wage into the Social value elements within the specification. This has now been added

Crime & disorder implications:

- 11.4 None.

Public health implications:

- 11.5 Healthwatch services make an important contribution to improving local health and social care services, and in making residents in the city aware of services and how to access them.

