

<b>Subject:</b>	<b>Progress Establishment of a Local Healthwatch</b>		
<b>Date of Meeting:</b>	<b>Health Overview and Scrutiny Committee 12<sup>th</sup> June 2012</b>		
<b>Report of:</b>	<b>Strategic Director, Communities Strategic Director, People</b>		
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<b>Key Decision:</b>	<b>Yes/No</b>	<b>Forward Plan No:</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. SUMMARY**

- 1.1 The purpose of this report is to update Members of the Health Overview and Scrutiny Committee on progress and endorse the recommendations made in relation to Healthwatch, since the Cabinet Report Decisions taken on 19th January 2012.
- 1.2 The report gives an update on the activities and recommendations that are being carried out to ensure progression from LINKs<sup>1</sup> (Local Involvement Networks) to Local HealthWatch (LHW) Brighton and Hove by April 2013

### **2 BACKGROUND AND POLICY CONTEXT:**

- 2.1 The Health and Social Care Act (2012) received Royal Assent on 27th March 2012. It seeks to strengthen the collective voice of patients, users of care services and the public through the establishment of a new structure known as Healthwatch. It includes two entities a) Healthwatch England and b) Local Healthwatch organisations.

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<sup>1</sup> Statutory support for public involvement in health and social care is currently provided by Local Involvement Networks (LINKs). LINKs were established in 2008 in every local authority area with social care responsibilities (in accordance with the 2007 Local Government and Public Involvement in Health Act). LINKs are volunteer-led organisations that enable local people to have a say in the commissioning and provision of health and social care services. LINKs have statutory powers enabling them to hold NHS and local authority social care commissioners and providers to account. These powers include a right to 'enter and view' premises where care for adults is provided and a power of referral to the local Health Overview & Scrutiny Committee. The work of LINK is supported by professional administrative staff: the LINK 'host'. Hosts are contracted by the relevant local authority, but must be independent of local authorities and NHS trusts. Currently, host services for the Brighton & Hove LINK are provided by the Brighton & Hove Community & Voluntary Sector Forum (CVSF). The LINKs will cease to exist as of 31st March 2012.

- 2.1.1 Healthwatch England, launching in October 2012, will work with local Healthwatch and will:
- advise the NHS Commissioning Board, English local authorities, Monitor and the Secretary of State;
  - have the power to recommend that action is taken by the Care Quality Commission (CQC) when there are concerns about health and social care services.
- 2.2.2 The Act requires local authorities to commission a new organisation known as Local Healthwatch which will launch on 1<sup>st</sup> April 2013. LHW will deliver current LINK services and will have additional responsibilities for NHS complaints advocacy and for elements of NHS signposting. LHW must also have a seat on the local Health & Wellbeing Board, enhancing its ability to engage with strategic planning and commissioning issues.
- 2.2.3 In summary, LHW will:
- carry out statutory functions;
  - be corporate bodies, embedded in local communities;
  - act as the local consumer champion, representing the collective voice of patients, service users, carers and the public, on statutory health and wellbeing boards;
  - play an integral role in the preparation of the statutory Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based;
  - have real influence with commissioners, providers, regulators and Healthwatch England using their knowledge of what matters to local people;
  - report concerns about the quality of health care to Healthwatch England, which can then recommend that the CQC take action;
  - signposting – providing information to patients and public who need to access health and care services and promoting choice in line with health and social public information and advice guidelines and policies;
  - support individuals to access information and independent advocacy if they need help to complain about NHS services.
- 2.2 Changes made to the Health and Social Care Act in the late stages of its passage through parliament mean that we will need to wait for secondary legislation (due autumn 2012) before being certain of the detailed requirements in relation to the commissioning of the LHW. However it is clear that the Council will have a duty to contract with a LHW organisation for the functions outlined above. LHW organisations will not themselves be statutory bodies (Section 182).
- 2.3 The Act also makes provision for contractual arrangements between local authorities and LHW, which must now be a social enterprise. It enables local authorities to authorise LHW organisations to contract with other organisations or individuals (LHW contractors) to assist them to carry out their activities.
- 2.4 Local authorities are given a number of duties in relation to monitoring and reporting on the work of LHW (Section 183). The Secretary of State has powers to regulate the contractual relationships between local authorities, LHW organisations and LHW contractors (Section 184).

- 2.5 Under the Act, the Secretary of State can make regulations to require commissioners and providers of health or social care to respond to requests for information or reports or recommendations of LHW organisations and to allow members of LHW entry to premises (Section 186).
- 2.6 LHW organisations must produce an annual report on their activities and finance and have regard to any guidance from the Secretary of State in preparing these reports. Copies of the annual reports must be sent to the NHS Commissioning Board, relevant Clinical Commissioning Groups and Healthwatch England among others specified in previous legislation (Section 187).
- 2.7 The legislation permits the Secretary of State to transfer property, rights, liabilities and staff from Local Involvement Networks (LINKs) to LHW, to assist local authorities to transfer arrangements from LINKs to LHW, A transfer scheme may require a local authority to pay compensation to a transferring organisation/LINK (Section 188).
- 2.8 Local authorities must have regard and must require LHW to have regard to guidance from the Secretary of State on managing potential conflicts of interests between being funded by local authorities and being able to challenge them effectively when required (Sections 183 and 187).
- 2.9 The Health and Wellbeing Boards being set up by each second-tier and unitary local authority are required to have a representative of LHW among their members (Section 194).
- 2.10 The Healthwatch brief extends across all services provided as part of the National Health Service in England, for all ages. However in respect of social care, DoH guidance restricts the brief to adult care services for people over 18. However, it is evidently important that key links are made with Children's Services and the Children's Board especially when considering transition. The original legislation makes reference to "social services functions as prescribed within the meaning as in the Local Authority Social Services Act 1970". This may also mean that other services in respect of children may come within the remit. We are waiting for further national guidance. The Council will ensure that representation is made from all stakeholders including minority groups to meet its responsibilities with regard to equality and diversity. In the absence of further information at this stage the proposed arrangements for Children and Young People's representation on the Shadow Health and Wellbeing Board are an important safeguard. These arrangements include Youth Council representation on the Shadow Board.

### **3. DEVELOPMENTS FOR HEALTHWATCH BRIGHTON AND HOVE:**

- 3.1 The LINK contract has been awarded for 2012-13 and has taken into account the public information and advice guidelines and policy requirements relating to the Shadow Health and Wellbeing Board. Appropriate changes have been made to ensure that the LINK can act as a Shadow Healthwatch representative on the Shadow Health and Wellbeing Board. Also work has commenced to enable LINK to input into the required engagement, Joint Strategic Needs Assessment strategy and commissioning issues.

- 3.2 The Healthwatch Commissioning Group has been set up with LINK representation and reports into the Public Health and Well Being Group. The set up process also ensured that there is no conflict of interest in the procurement process.
- 3.3 The Healthwatch Commissioning group has completed a full risk assessment process. The risk table is reviewed on a regular basis and used to inform progress. The group has also looked at the implications of the legislation on the setting up of a LHW for Brighton and Hove. They have reviewed and drawn on the learning from the recently published Building successful Healthwatch organisations Report, which was based on informed observations from emerging practice in 15 local Healthwatch Pathfinder case study areas across England. This has helped to assist them in planning and implementing robust and fit-for-purpose LHW organisations by April 2013.

#### **4. Recommendations to be taken forward to maximise effectiveness**

- 4.1 It had originally been intended to commission the LHW for Brighton and Hove by holding a competitive tender process. However the Government has clearly stated that it will be up to local authorities to decide how they commission and fund their LHW, and that this may include grant in aid funding. Given the lack of certainty caused by the changes made to the Health and Social Care Act, and without clarity of the finance which is to be made available, it is felt that establishing the LHW through grant-aid to a suitable organisation, using the 'commissioning prospectus' is more appropriate.
- 4.1.1 The Healthwatch Commissioning Group recommends that a grant funding approach is used, based on an initial grant period of three years with the Council having an annual option to extend by periods up to a further 24 months subject to confirmation of funding.
- 4.1.2 We also recommend that, in order to develop a "Brighton and Hove Healthwatch model" that reflects local circumstances; there should be a stakeholder engagement and consultation process across the city to seek views and opinions on LHW and to determine local need. The process will integrate consensus building and also give time to absorb any further guidance that emerges from the Government. The process needs to acknowledge that the success of LHW in Brighton and Hove requires a whole system model of citizen led quality assurance that will need to have real clout.
- 4.2 It is also recognised that LHW must be delivered at an economic cost which balances the importance of the Healthwatch function against the priorities set by the Council and the acute financial pressures on direct health / social care service provision. Best value and social capital will have to be sought against a limited budget and built into the shared vision, expected outcomes and specification from the outset.
- 4.3 The consultation and engagement activity will take place between June and September 2012 and will bring key stakeholders - whether residents, patients or members of community and voluntary organisations as clients, volunteers or staff, statutory or the business sector - together to:
- inform them on key issues surrounding LHW;

- seek their views and expertise on the vision, development, functions and outcomes - including assessing views on the appropriate delivery model; and
- help inform the mapping of existing Primary Care Trust Patient Advisory and Liaison Services, complaints advocacy and complaints services that are provided locally.

It is anticipated that the findings will help the Healthwatch Commissioning Group to set the vision, objectives and outcomes for the Healthwatch Commission. This will help to ensure that the specification is enabling rather than perspective for applicants.

A series of presentations will be carried out at various service user forums, including the Patient Participation Group (PPG) Forums, CVSF, LINK Steering group and Engagement Consortium. The purpose of the presentation is two-fold: to raise awareness of LHW and to seek initial views and to raise awareness of the Brighton and Hove LINK projects as a way of encouraging future volunteers to become involved, thereby creating a pool of active and skilled volunteers in readiness for LHW.

- 4.4 The indicative timelines are set out below.  
These are subject to Department of Health guidelines and secondary legislation:

Consultation period - July to September 2012

Prepare and release funding opportunity documentation - November 2012

Application funding closes - mid December 2012

Initial evaluation and bidder discussions - December - January 2013

Receive final submissions and decision to award – end of February 2013

Local Healthwatch launched - 1 April 2013

- 4.5 The above timeline is dependent upon the passing of secondary legislation and the release of further guidance from Government. Scrutiny is asked to note that, if there is a slippage in timescale within the Commissioning of Local Healthwatch for Brighton & Hove, an extension on the LINK contract will be requested in good time so as to ensure that there is no break in service between the ending of LINK and start of the LHW.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The Department of Health has indicated that an announcement on the provisional funding allocation for the additional functions of Local Healthwatch will be made by the end of the year, following the consultation on allocation options in July 2011. The funding will be allocated through the specific revenue grant for Learning Disabilities and Health Reform and plus an additional £15,000 for start up costs. This will be in addition to the current level of funding allocated to LINK functions of £147,000 which is planned to increase by inflation subject to agreement of the budget strategy for 2012/13.

*Finance Officer Consulted: Anne Silley*

*Date:*

### Legal Implications:

5.2 The Legal implications of this update are set out in the body of the report.

*Lawyer Consulted:*

*Jill Whittaker*

*Date:*

Equalities Implications:

- 5.3. Use of a grant programme is one of the mechanisms through which the council implements its equality aims in relation to communities in the city. As part of the process of defining the vision, objectives and outcomes on which the grant will be evaluated, actions to promote equalities issues are prioritised. Working with stakeholders an EIA will support and influence the practical implementation of the programme and wider service. This will specifically ensure that as many potential organisations as possible are identified that are able to address the needs of the diverse demographic of Brighton and Hove.

Sustainability Implications:

- 5.4 The setting up of a local HealthWatch will fall within the City Council's Corporate plan (2011) priority area of creating a more sustainable city. Sustainability of health and wellbeing means improving conditions, which influence health, and promote healthy lifestyles, treating illness, providing care and support and reduce inequalities in health. Within the procurement process of commissioning support for Health Watch, effective evidence of sustainability will need to be integrated into this approach with due regard to the One Planet Framework.

Crime & Disorder Implications:

- 5.5 HealthWatch has a key role in the engagement aspects of the JSNA and the Joint Health and Wellbeing Strategy. Any findings of the wider determinants of health and wellbeing, including crime and disorder, will be fed into relevant city wide strategies via the B&H Strategic Partnership family of partnerships.

Risk and Opportunity Management Implications:

- 5.6 Policy development in this area is undertaken with due regard to the council's approved risk management process. A risk register is being maintained by the Healthwatch Commissioning Group, and actively inform project actions and future arrangements.

Public Health Implications:

- 5.7 Healthwatch will be an important mechanism to support the improvements in public health, especially through the engagement work of the organisation which will contribute a wider and more effective development of the JSNA that will in turn enhance the Joint Health and Wellbeing Strategy to ensure that patients and communities have a voice in the development of Health and Wellbeing. The LINK is already on the Shadow Health and Wellbeing Board and this will inform the process for Healthwatch as a statutory representative on the Health and Wellbeing Board and therefore will enable a much more wider engagement and feedback mechanism to communities to be developed.

Corporate / Citywide Implications:

- 5.8 This commission supports two of the council's corporate priorities, tackling inequality and engaging people who live and work in the city. Local Healthwatch will 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. A representative of Local Healthwatch will have a seat on the local Health and Wellbeing Board, ensuring there is a route to influence decisions about local service provision.
- 5.9 The commission of Healthwatch is being lead by the Communities and Equalities Team to ensure the work supports implementation of the Community Engagement Framework and makes links with other commissions and engagement projects aimed at representation, engagement and reducing inequality. As part of this work the Communities and Equalities Team are in discussions with the Clinical Commissioning Group concerning opportunities to either align or joint commission Healthwatch and the new patient engagement arrangements for the city.

## **LIST OF APPENDICES**

### **List of Appendices Referred to**

1. Appendix A – Dept of Health definition of a Corporate Body
2. Appendix B – Dept of Health document, Local HealthWatch: A strong voice for people - the policy explained, March 2012
3. Appendix C- Healthwatch Commission Action Plan

### **Background Papers Used to Compile this Report**

4. Letter from David Behan, Director General for Social Care, Local Government & Care Partnerships, 2nd March 2012, Gateway Reference: 17330
5. Health and Social Care Act (2012)