

Decision Maker: Care Services Policy Development and Scrutiny Committee
Care Services Portfolio Holder

Date: 4th September 2012

Decision Type: Non-Urgent Non-Executive Non-Key

Title: DEVELOPMENT OF BROMLEY HEALTHWATCH AND NHS
INDEPENDENT COMPLAINTS ADVOCACY SERVICE

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Ward: Boroughwide

1. Reason for report

The Health and Social Care Act 2012 introduced changes to replace the current system of patient and public involvement in publicly funded health and social care. Each local authority must commission a new Healthwatch organisation from April 2013 to replace the existing Local Involvement Network (LINK) and an independent health complaints advocacy service to replace the existing Patient Advice and Liaison (PALS) service currently commissioned by the NHS. This report sets out the functions that Bromley Healthwatch and the independent complaints advocacy service will be commissioned to deliver together with recommendations for procuring the services.

2. **RECOMMENDATION(S)**

The Policy Development and Scrutiny Committee is asked to

2.1 comment on the recommendations outlined in this report.

The Portfolio Holder is asked to agree:

2.2 to proceed to an open market testing process to appoint a provider to deliver a local Healthwatch organisation;

2.3 that the contract for Bromley Healthwatch is let for 1 year from 1st April 2013 with the potential to extend for a further 2 years with authority to extend the contract to be delegated to the Director of Education and Care Services in consultation with the Care Services Portfolio Holder;

- 2.4 to allocate a maximum of £145k to the Healthwatch service for 2013/14 from the funding provided by the Department of Health for Healthwatch;
- 2.5 to join the London wide procurement exercise for the complaints advocacy service and to allocate a maximum of £64k for 2013/14 from the funding provided by the Department of Health for independent complaints advocacy to the cost of the service;
- 2.6 to allocate a maximum of £5k in 2013/14 from the funding provided by the Department of Health for independent complaints advocacy to support the development of an information self help advocacy web portal.
- 2.7 to allocate the £15k made available in 2012/13 to resource the commissioning of Bromley Healthwatch and the independent complaints advocacy service.

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People Supporting Independence
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Financial

1. Cost of proposal: Estimated Cost: £90k in 2013/14 for Healthwatch; £69k in 2013/14 for independent complaints advocacy; £5k in 2013/14 for advocacy web portal; £15k in 2012/13 for procurement of these services
 2. Ongoing costs: Recurring Cost: as above
 3. Budget head/performance centre: 813 900 3814
 4. Total current budget for this head: £15k set up costs for 2012/13; £164k in 2013/14
 5. Source of funding: DCLG formula grant
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Staff

1. Number of staff (current and additional): N/A - Externally commissioned service
 2. If from existing staff resources, number of staff hours: Contract Compliance Officer for approximately 70 hours per annum
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Legal

1. Legal Requirement: Statutory Requirement: Health and Social Care Act 2012
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All borough residents could potentially benefit from a well functioning Healthwatch organisation and the independent complaints advocacy service.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments:

1. COMMENTARY

The Health and Social Care Act 2012 introduced the requirement for local authorities to develop a local Healthwatch organisation which will act as the local consumer champion across health and social care. This new organisation must be in place by 1st April 2013. It also requires local authorities to secure an independent complaints advocacy service for health to replace the existing Patient Advice and Liaison (PALS) service currently commissioned by the NHS, also by 1st April 2013. This report sets out the requirements for each service and recommends the procurement route for each.

HEALTHWATCH

3.2 The main functions for a local Healthwatch are defined as:

- Providing information, advice and signposting about access to local health and care services and about choices that may be made with respect to aspects of those services (previously provided by the PALS service for health)
- Obtaining the views of local people about their needs for, and their experiences of, local health and care services and conveying these to those involved in the commissioning and scrutiny of care services
- Promoting and supporting the involvement of local people in the commissioning, provision and scrutiny of local health and care services
- Making reports and recommendations about how local care services could or ought to be improved, to persons responsible for commissioning, providing, managing or scrutinising local health and care services
- Signposting members of the public to the NHS complaints advocacy service
- Representing Healthwatch on the Local Health and Wellbeing Board which is responsible for the Joint Strategic Needs Assessment and the development of a Health and Wellbeing Strategy.

Bromley Healthwatch will incorporate some of the functions currently undertaken by Bromley Local Involvement Network (LINK). LINKs are community based, locally accountable networks of individuals, groups and organisations designed to strengthen the patient, public and user voice in the commissioning, provision and scrutiny of local services. Bromley Link is a network comprised of volunteers, supported by a “host” organisation commissioned by the local authority (currently Shaw Trust).

3.3 Nationally there has been a view that LINKs have not delivered all the outcomes expected of them. For example, they have struggled to involve a wide range of people from different sections of the community, they have no consistent identity, the tripartite structure (local authority, host organisation and LINK) has not been successful. As a result the new legislation requires that local Healthwatch will be a “body corporate”. This would be an organisation in its own right, for example a charity, or company limited by guarantee, or a community interest company. Healthwatch will need to be able to appoint its own staff, will have to produce its own annual accounts and will have to comply with nationally set standards.

3.11 The Health and Social Care Act also introduced Healthwatch England, an organisation which will represent Healthwatch at a national level and will be a committee of the Care Quality

Commission. (CQC) It is expected that local Healthwatch organisations will be able to pass on local concerns to Healthwatch England who will work with CQC to look into concerns raised from local information

- 3.4 The establishment of Bromley Healthwatch will require significant changes to current arrangements. In order to explore the options for Bromley two workshops have been held to which stakeholders from a wide range of statutory and voluntary organisations including the current Bromley Link organisation were invited. The workshops were well attended and delegates demonstrated a strong commitment to working together to maximise the effectiveness of the new organisation. Key points arising were:
- The importance of using local knowledge to successfully set up a local Bromley Healthwatch
 - The importance of avoiding duplication with existing structures, thereby maximising both personnel and financial resources
 - The need to explore joint commissioning with neighbouring boroughs to ensure maximisation of resources while still retaining local expertise and knowledge
 - The need to ensure that Bromley Healthwatch is able to reach out to all the communities in the borough including the different ethnic communities and full range of ages
 - The need to ensure that the enthusiasm, experience and expertise held by the current group of volunteers within Bromley LINK is not lost in the transition to Bromley Healthwatch.

3.5 The Department of Health (DH) has also hosted sub regional events for stakeholders which have explored more detailed functions of Healthwatch. These have been attended by representatives from Public Health, the voluntary sector, Bromley Link and the Chairman of the Care Services policy Development and Scrutiny Committee.

3.6 As a result of the consultations, officers have considered the following procurement options which were set out for stakeholders at the workshops.

a) Grant aid to Bromley Link to develop into Bromley Healthwatch. This was explored with Bromley Link, but rejected because Bromley Link was not in a strong enough position to take this forward.

b) Soft market testing with likely providers leading to an invitation to selected providers to submit bids. This method does not sufficiently test the open market and could be seen as less than transparent.

c) Open competition. This option is transparent and tests the market thoroughly. Local organisations have reservations about their ability to compete successfully against larger national providers.

3.9 In order to procure a Healthwatch service, option c), which was also supported by attendees at the workshop, is recommended. Officers have in effect already undertaken soft market testing by working with Bromley Link in order to ensure that they understand the future requirements of Healthwatch and how Bromley Link members can contribute to this. With Council encouragement Bromley Link has explored the potential of collaboration with other local voluntary organisations in order to set up an organisation that would be able to take part in a procurement process. Having undertaken this “market testing” officers have satisfied themselves that the local organisations will not be disadvantaged in an open competition. The Department of Health will be running regional workshops to assist local providers with engaging and competing in a formal procurement process.

- 3.7 As a response to concerns raised by local authorities the DH has undertaken work to reduce duplication of activity in London boroughs. The DH has organised a useful series of workshops for London commissioners which have explored Healthwatch requirements and potential models. As a result of this the DH has developed a document which sets out the characteristics of a good Healthwatch organisation which will form the basis of the service specification for Bromley Healthwatch.

INDEPENDENT COMPLAINTS ADVOCACY SERVICE

- 3.12 The Health and Social Care Act also introduced changes in the way that people are supported to make complaints about NHS services. This service was previously commissioned centrally by the Department of Health, but with effect from April 1st 2013 responsibility for commissioning it will be delegated to individual Local Authorities. For each authority this is a relatively low value contract, the annual indicative allocation of funds for Bromley being £69,439.

- 3.13 The potential exists for the local Healthwatch organisation to

- a) be commissioned to deliver this service, or
- b) to restrict its role to signposting residents to the provider of the service.

Discussions with the local stakeholder group have concluded that option b) is preferred.

- 3.13 The current provider has released information about the usage of the current service in Bromley during 2010/11. This is shown below as an indication of volume of activity:

Enquiries Received	Information Download	Direct Advocacy	% Cases refer to service in another area
476	599	62	53%

A significant complexity of the proposal for individual commissioning is demonstrated above by the figures for cases complaining about services in another borough. If each borough is responsible for assisting its own residents, then there will be a plethora of individual advocacy organisations involved in assisting residents with complaints about the major London hospitals, all needing individually to identify the appropriate route for doing this. In response London commissioners are exploring the potential of entering into a joint contract for the service, either Pan London, or sub regionally. A joint contract would mean that information about these routes could be developed and knowledge retained by the provider organisation, compared with the difficulty of sharing this information across borough. It would also reduce the costs to be borne by each borough of tendering and monitoring a small contract. The London Borough of Hounslow is leading on this project, supported by the London Joint Improvement Partnership. It is therefore recommended that Bromley joins the London wide procurement arrangements for the independent complaints advocacy service.

- 3.14 In addition, the current provider has extensive materials online for self-help tools for those more able to advocate on their own behalf. It has been recognised that there is possible merit in obtaining those documents and adapting for any future service provision. These could be adapted to be provided online as part of a web portal that could be developed for all 33 London boroughs independent of any other contracts for direct face to face advocacy provision.
- 3.15 An option for consideration is that regardless of the procurement route chosen by individual London boroughs, a small proportion of the funding allocation London boroughs have received

for Healthwatch implementation be set aside to cover the costs for developing a web portal. This portal, as a minimum, would provide self-help tools for advocacy, and could be extended to be a single access point for all NHS complaints advocacy providers across London, whatever route of collaborative procurement is chosen.

- 3.16 The single web portal could provide a single information point for all London boroughs for NHS Complaints advocacy and provide the details and referral routes of the relevant provider for the client's borough of residence. A small proportion (£5k) of the ongoing core Healthwatch funding allocation could then be set aside in order to keep the web portal maintained.

4 POLICY IMPLICATIONS

- 4.1 The development of a local Healthwatch function and independent complaints advocacy is a requirement introduced by the Health and Social Care Act 2012.

5 FINANCIAL IMPLICATIONS

- 5.1 The government DCLG formula grant already includes funding for Bromley Link. The current contract cost of commissioning the support for Bromley Link is £90k per annum. The available funding will be increased by a further transfer of £55k to cover the newly transferred function of providing information and signposting services from the PCT PALS service. It is proposed that a maximum of £145k be made available in 2013/14 for the procurement of the new Healthwatch service.

- 5.2 A sum of £69k will also be made available to cover the cost of the independent complaints advocacy service and it is proposed that £64k of this be allocated to the procurement of the independent complaints advocacy service with the remaining £5k allocated to the development of the information self help advocacy portal.

- 5.3 The figures quoted for the increases in funding are estimates only and will not be confirmed by the government until January 2013. The allocations will only be guaranteed until the end of the 2013/14 financial year pending the outcome of the Government's next comprehensive spending review. Therefore it is proposed that any new contracts should be for an initial period of one year (2013/14) with the option to extend for a further two years subject to the continuing availability of funding.

- 5.4 The government has included £15k in formula grant for 2012/13 to assist in the set up of Bromley Healthwatch which will be used to resource the commissioning of Healthwatch and the independent complaints advocacy service. It is proposed that this is used to fund the resources required in the ECS Commissioning team to procure the new services.

6. LEGAL IMPLICATIONS

- 6.1 The legislation requires that local Healthwatch will be a "body corporate". This would be an organisation in its own right, for example a charity, or company limited by guarantee, or a community interest company. Healthwatch will need to be able to appoint its own staff, will have to produce its own annual accounts and will have to comply with nationally set standards.

- 6.2 Procurement of the Healthwatch service will comply with CPR 8.1 tendering requirements. Consideration will be given to including TUPE information in respect of current Shaw staff employees engaged on the present service.

- 6.3 CPR 8.4.1 recognises the use of collaborative arrangements as proposed with the pan London complaints service. At this stage the cost of participation is not known but given the value of the service should be minimal and will be accommodated within existing budgets. It is not yet clear

who will be leading on the establishment of a pan London web portal or the method that will be chosen but it is anticipated that the value of the Council's participation is such that final approval of this matter can be delegated to the Director of Education and Care Services

7 PERSONNEL IMPLICATIONS

- 6.1 Should the TUPE regulations apply to staff in the existing Link host organisation, this will be managed in accordance with relevant employment legislation.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	ACS11063 Arrangements for developing Healthwatch in Bromley. Procurement of Complaints Advocacy in London (JIP / NHS London)