

North Tyneside Council Report to Cabinet

Date: 11 September 2017

ITEM 6(f)

Title: Healthwatch North
Tyneside Procurement
Exercise

Portfolio(s): Adult Social Care, Public
Health and Wellbeing

Cabinet Member(s): Councillor Margaret
Hall

Report from Service

Area: Health, Education, Care and Safeguarding

Responsible Officer: Jacqui Old (Tel: (0191) 643 7317)
Head of Health, Education, Care and
Safeguarding.

Wards affected: All

PART 1

1.1 Executive Summary:

The purpose of the report is to provide information for Cabinet on the proposed procurement exercise to commission an organisation to deliver the functions of Healthwatch in North Tyneside.

This report seeks Cabinet approval to carry out a procurement exercise in accordance with the Authority's Standing Orders, for the procurement of a suitable organisation to deliver Healthwatch North Tyneside. In accordance with Contract Standing Order 8 (4), this report requests approval to proceed with a procurement exercise as the estimated potential contract value may exceed £500,000.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) Note the information contained within this report regarding the Authority's responsibility to commission an organisation to deliver the functions of Healthwatch North Tyneside; and
- (2) Authorise the Head of Health, Education, Care and Safeguarding, in consultation with the Cabinet Member for Adult Social Care, Public Health and Wellbeing, the Head of Law and Governance and the Head of Finance to:
 - (i) undertake a competitive procurement exercise and appoint a provider to deliver a local Healthwatch in North Tyneside; and
 - (ii) award a contract to the successful tenderer on contractual terms approved by the Head of Law and Governance.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 14 August 2017.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the Our North Tyneside Plan:

Our people will:

- Be listened to, and involved by responsive, enabling services
- Be healthy and well – with the information, skills and opportunities to maintain and improve their health, wellbeing and independence
- Be cared for and safeguarded if they become vulnerable

1.5 Information:

1.5.1 Background

The Health and Social Care Act 2012 introduced a statutory requirement for local authorities to establish a local Healthwatch in its area. As a 'consumer champion', the core business of local Healthwatch is to be an independent consumer voice ensuring that the views of children, young people and adults influence improvements in health and social care.

The vision for a local Healthwatch was that it could only deliver on its statutory requirements if the organisation was seen as credible and professional, able to build highly effective and constructive relationships with commissioners, providers, service users, patients and wider partners including Healthwatch England.

Local Healthwatch organisations are not themselves statutory bodies. There is a requirement however that the organisation which delivers the local Healthwatch functions must be a 'body corporate' (it has a legal personality distinct from that of its members) and is a social enterprise. In addition, the Health and Social Care Act 2012, requires that a local Healthwatch be an independent body in its own right.

The tender for the current delivery of Healthwatch North Tyneside was published on the 23rd October 2012. Carers Federation was identified as the preferred provider to establish an independent organisation that would become the local Healthwatch for the Borough of North Tyneside, with effect from 1st April 2013.

Healthwatch North Tyneside (HWNT) was established and registered as an independent charity in 2014. The charity is led by a board of trustees, supported by a staff team and a group of volunteers (charity no 1160753). As provided for in the tender in October 2012 and to satisfy the independence requirements of the Health and Social Care Act 2012, the contract for the delivery of the Borough's local Healthwatch was novated from Carers Federation to independent HWNT, in April 2015.

HWNT has been operating successfully since the contract was novated to it and has built up strong relationships with the health and social care, community and voluntary sector in North Tyneside. The contract will expire on 31st March 2018.

1.5.2 Functions of Healthwatch

Whilst funded by the Authority, HWNT is required to be an independent organisation. As such, the Authority cannot prescribe the work to be undertaken by HWNT or how it will deliver that work, outside of compliance with legal requirements.

There is however a number of statutory activities that HWNT is expected to deliver under its contractual arrangement with the Authority. These are:

1. Promoting and supporting the involvement of local people in the commissioning, the provision and scrutiny of local care services.
2. Enabling local people to monitor the standard of provision of local care services and whether and how local care services could and ought to be improved.
3. Obtaining the views of local people regarding their needs for, and experiences of, local care services and importantly, to make these views known.
4. Making reports and recommendations to commissioners and providers of care services, about how local care services could or ought to be improved and sharing this information with Healthwatch England.
5. Providing advice and information about access to local care and support services so choices can be made.
6. Making recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to conduct special reviews or investigations (or, where the circumstances justify doing so, making such recommendations direct to CQC); and to make recommendations to Healthwatch England to publish reports about particular issues.
7. Providing Healthwatch England with the intelligence and insight it needs to enable it to perform effectively.

1.5.3 Additional responsibilities of a Local Healthwatch Service

The local Healthwatch service:

- (a) is required to have a seat on the local Health and Wellbeing Board, to ensure that the views and experiences of patients, carers and other service users are taken into account. This will ensure that local Healthwatch has a role in promoting public health, health improvements and in tackling health inequalities;
- (b) may involve persons or organisations (other than the Authority) to help carry out some (but not all) of its activities. It may choose to subcontract the delivery of particular activities, for example the advice and information activity;
- (c) may ask providers for information which they must make available. For public bodies, Healthwatch must rely on good relationships or use the Freedom of Information Act to get information; and

- (d) has additional reporting power to enable it to refer matters relating to social care services to the overview and scrutiny committee of the Authority. The committee must then have regard to any relevant information that is sent to them.

Local authorities are given a number of duties in relation to monitoring and reporting on the work of its local Healthwatch. The Secretary of State has powers to regulate the contractual relationships between local authorities, local Healthwatch organisations and local Healthwatch contractors.

Under the Health and Social Care Act 2012, the Secretary of State can make regulations to require commissioners and providers of health or social care services to respond to requests for information or reports or recommendations of a local Healthwatch organisation and to allow members of local Healthwatch entry to premises. The Secretary of State can also regulate for local authority overview and scrutiny committees to acknowledge referrals to them from local Healthwatch. Service-providers, such as local authorities and NHS bodies are under a duty to respond to local Healthwatch recommendations. Commissioners and providers are also required to have regard to the reports and recommendations and will have to be able to justify their decision if they do not intend to follow through on them.

Local Healthwatch organisations are required to produce an annual report on their activities and finance and have regard to any guidance from the Secretary of State in preparing these reports.

The intellectual property for the Healthwatch branding is owned by Healthwatch England. North Tyneside Council use the branding under licence, and, in turn, permit the current provider to use it under licence. Any new provider will be able to use the branding of Healthwatch and Healthwatch North Tyneside in the same manner.

1.5.4 Procurement Exercise

Subject to Cabinet approval, it is anticipated that a procurement exercise will commence in October 2017 and the new contract for the delivery of Healthwatch North Tyneside will be awarded in early January 2018. This will allow for a 3 month transition period to the new provider for the delivery of the functions of Healthwatch North Tyneside from 1 April 2018.

The proposed contract will be for a period of two years with the option to extend for up to three further years (3 x 1 year extensions). The reasons for the requirement for this length of contract include:

- It is an ongoing statutory requirement that the Authority commissions a local Healthwatch; legislation is unlikely to change within the next two years;
- Should the contract be awarded to an organisation new to North Tyneside, it could take up to a year to establish itself; and
- Yearly contract extensions provide the opportunity for the successful organisation to offer some security and stability to the staff team, and a stable presence within the borough; however the Authority will retain control to end the contract should legislation change significantly.

As the Authority continues its work to find more efficient, cost effective and flexible ways of delivering services, one of the main aims of the procurement process will be to seek bids detailing more innovative ways to deliver the local Healthwatch which, whilst

meeting the statutory outcomes and driving up standards of delivery, will see savings on costs such as overheads.

The contract will be awarded on a price/quality of 70/30.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet may approve the recommendations at paragraph 1.2 of this report.

Option 2

Cabinet may decide not to approve the recommendations at paragraph 1.2 of this report and ask officers to explore other options for the delivery of the Borough's local Healthwatch.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reason:

A local Healthwatch is a statutory requirement. The current contract for the delivery of Healthwatch North Tyneside will terminate on 31st March 2018. If approved, the Authority will be in a position to commence a procurement exercise to appoint a replacement provider when the current contract comes to an end, and allow for a transition period.

If the preferred option is not approved, the Authority will be unable to undertake the proposed procurement exercise and will be unable to meet its statutory obligations to ensure the provision of a local Healthwatch service in North Tyneside.

1.8 Appendices:

None.

1.9 Contact officers:

Scott Woodhouse, Strategic Commissioning Manager, Adults, tel. (0191) 643 7082
Susan Meins, Commissioning Manager, tel; (0191) 643 7940
Lynne Allen, Category Manager, Engie, tel: (0191) 643 5661
Emma Simson, Legal Services, tel: (0191) 643 5375
Alison Campbell, Senior Business Partner, Corporate Finance, tel; (0191) 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [Regulation 40, The NHS Bodies and Local Authorities \(Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch\) Regulations 2012.](#)
- (2) [A guide to the legislation affecting local healthwatch - Healthwatch England 2014.](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

Local authorities have a duty under the Local Government and Public Involvement in Health Act 2007 (as amended by the Health and Social Care Act 2012) to ensure that an effective local Healthwatch is operating in their area, delivering the activities set out in the legislation. The Local Reform and Community Voices grant provides one element of the non-ring fenced funding provided for local Healthwatch, with the larger proportion having been rolled into the local government settlement in 2011/12.

As discussed in 1.5.4 above, the Authority will want to see a reduction in the current budget for the local Healthwatch during the forthcoming procurement exercise. It is acknowledged that the same statutory outcomes are expected of the organisation, and as such, more innovative and cost effective ways of delivery will be sought during the procurement process to enable the Authority to make these savings.

2.2 Legal

The procurement of a provider to deliver HWNT under a contract with the Authority will be a contract for services and as such will be governed by the Public Contracts Regulations 2015 (PCR). The Authority will therefore carry out an open procurement exercise through the North East Procurement Organisation portal to determine the most suitable provider for this service. In doing so, the Authority will comply with the PCR 2015.

The nature of this service fits within the definition of health, education and social services as defined by the PCR 2015, which means the Authority will be able to apply the 'Light Touch Regime' to this procurement. This regime gives the Authority a greater degree of flexibility in the procurement process (including over the time periods for the procurement) provided that the Authority complies with the European Commissions overarching principles of fairness and transparency.

If Cabinet agree to the recommendations contained in this report, a further delegated officer decision will need to be taken by the Head of Health Education Care and Safeguarding in consultation with the Head of Law and Governance and the Head of Finance. Twenty eight days notice on the Forward Plan of the delegated officer decision must be given and a record of the decision taken together with the report to the officer making the decision will need to be produced and published on the Authority's website (unless the matter for decision involves exempt or confidential information in accordance with Part 1 of Schedule 12A to the Local Government Act 1972).

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Consultation has been conducted with the Adult Social Care Senior Management Team and the Cabinet Member for Adult Social Care, Public Health and Wellbeing to agree the procurement proposal. The Assistant Director Strategy and Transformation is part of the working party to develop the specification for the service.

2.3.2 External Consultation/Engagement

The views of senior staff within North Tyneside Clinical Commissioning Group, Northumbria Healthcare NHS Foundation Trust and Northumberland, Tyne and Wear NHS Foundation Trust are being gathered and will inform the specification for the service.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

There are no equalities and diversity implications directly arising from this report.

2.6 Risk management

Any risks identified can be managed within the organisation's risk management processes.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy