

MAYOR & CABINET		
Report Title	Re-commissioning of Healthwatch and NHS Complaints Advocacy Services	
Key Decision	Yes	Item No
Ward(s)	All	
Contributors	Executive Director for Community Services	
Class	Part One	Date: 5 June 2019

1.0 Reason for report

This report sets out a proposal to engage in a procurement exercise for Healthwatch Lewisham and NHS Complaints Advocacy Services in consideration of the current contract ending 31 March 2020 and in line with securing best value for this service.

2.0 Recommendation

- 2.1 The Mayor & Cabinet are recommended to approve:
- (i) a procurement exercise to be carried out that will retender the Healthwatch Lewisham and NHS Complaints Advocacy Services securing a provider that delivers best value

3.0 Policy Context and Background

3.1 Under the Health & Social Care Act (2012), local authorities who commission Adult Social Care services have a statutory duty to commission a local Healthwatch that is independent of the Local Authority. As set out in statute, the Local Healthwatch is expected to:

- (i) Gather views and understand the experience of people who use services, carers and the wide community
- (ii) Obtain people's views about their needs for, and experience of local care services and make those views known to those involved in the commissioning, provision and scrutiny of health and care services.
- (iii) Promote and support the involvement of local people in the monitoring, commissioning and provision of local care services
- (iv) Make recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to carry out special reviews or investigations into areas of concern (or, if the circumstances justify it to go direct to the CQC with their recommendations, for example if urgent action were required by the CQC)

- (v) Provide information and signposting to services and support for making informed choices.
 - (vi) Make people's views and experiences known to HW England (and to other HW organisations) and provide a steer to help it carry out its role as national champion
- 3.2 Healthwatch Lewisham is required to provide a range of services that support individuals and communities with regards to its expectations on health and social care services in their local areas.
- 3.3 Lewisham's Corporate Strategy 2018 – 2022 has as one of its commitments that 'all health and social care services are robust, responsive & working collectively to support communities and individuals'. Lewisham's Healthwatch, as part of its role, will support the Council to deliver its commitment to local people.
- 3.4 The Health and Social Care Act 2012 also transferred the responsibility and funding to commission an NHS Complaints Advocacy Service to local authorities from 1st April 2013. The provision of independent advocacy is a legal requirement under section 248(1) of the National Health Service Act 2006.
- 3.5 Independent advocacy in this instance relates only to the provision of assistance for Individuals making or intending to make an NHS complaint (which includes a complaint to the Health Service Ombudsman). This service is currently part of the Lewisham's Healthwatch contract.
- 3.6 The NHS Complaints Advocacy Service will be accessible to residents throughout the borough who wish to seek support to make a complaint about a NHS service.
- 3.7 The key focus of the NHS Complaints Advocacy Service is to "Empower and Assist" the residents of Lewisham to use the NHS complaints procedure, offering a more representative and response locally.
- 3.8 The delivery of a Healthwatch service in Lewisham allows residents to have a voice to effectively challenge and improve upon how health and social care services are provided. The Council would also be in breach of its statutory duties by not commissioning a local Healthwatch service. The impact of not providing Healthwatch services would leave residents without an independent body that champions their rights in relation to their use of health and social care.

4.0 Current Position

- 4.1 The Council undertook a formal tendering process and awarded the contract to Healthwatch Bromley on 1st April 2016 for 2 years with an option to extend for a further year. The annual value of the Healthwatch contract is £107,428.00 plus £50,000 for the NHS Complaints Advocacy service.

Bromley Council retendered its Healthwatch provision & Healthwatch Bromley were not successful. As a result Healthwatch Lewisham had to move offices back into the Borough, managed by Community Waves as a registered charity.

- 4.2 The contract was further extended by one year (1st April 2019 to 31st March 2020) in order to ensure that the Council has sufficient time to undertake a robust engagement (see section 11) and procurement exercise thus ensuring that Healthwatch Lewisham continues to play a key role in ensuring local people's voices are heard and they can access, advice, advocate and support as required.

5.0 Current Provision of Healthwatch Services

- 5.1 Healthwatch Lewisham has a work plan and engages with different sectors within health & social care in the form of engaging, entering & view, signposting, collating patient experience, communicating/monitoring, providing advocacy, influencing & reporting, and signposting to services.
- 5.2 Much of the work of Healthwatch Lewisham is focused on amplifying those voices that are seldom heard such as people from black and minority ethnic communities, children and young people, supporting health and social care services to make improvements based on recommendations, listening to people, their views and experiences of local people, putting their views forward so that they can influence change. They have also consulted with residents who have a sensory impairment to explore their experience of accessing health and social care. They are increasing their reach on social media, enquiries that require signposting, working with local services in the role of patient champion, meeting people at community hubs and developing a team of volunteers to understand and feedback information.
- 5.3 In 2017/18 Healthwatch representatives entered & viewed five services relating to health and social care, giving recommendations. Three visits were made to University Hospital Lewisham that focused on discharge and two visits were made to care homes. They did workshops with young people in schools, spoke to 5,700 Lewisham residents, with representation on numerous boards & committees. They made certain views and voices were heard through intelligence reports and representatives.
- 5.4 Through their outreach at 40 engagement hubs across the Borough, residents and service users had face to face opportunities to share their experiences of health and social care. They were supported by 28 volunteers and attended a range of public meetings, specialist and strategic committees and decision making forums.
- 5.5 The NHS Complaints Advocacy Service supported over 127 residents with their complaints and a further 124 residents were signposted to other services.

5.6 Healthwatch Lewisham have over 1700 followers on twitter & 1172 volunteering hours from 28 local residents. They continue to act as a critical friend to decision makers & is involved in roads shows, workshops & other areas that would benefit local people.

6.0 Options for Re-Commissioning Healthwatch Lewisham

6.1 Procurement process

In relation to the procurement process, there are two main options:

- (i) Open tendering exercise. The benefit of using an open procedure is typically the high level of respondents, increasing competition and opportunities for a wide range of innovative solutions. The disadvantage is the time potentially needed to evaluate a large number of tenders.
- (ii) Restricted procurement process whereby tenders are invited directly from a limited number of specialist contractors rather than through an open advert. The rationale for this would be based on previous experience in Lewisham and other London boroughs that there are only a small number of providers that are likely to submit bids and that these providers are already known to the Council. This approach would require approval from the Executive Director for resources to waiver procurement regulations.
- (iii) It is recommended that an open tendering exercise is used to procure Healthwatch Lewisham services (including NHS Complaints Advocacy Service). Although it appears that there are small number of suitable providers, this will provide an opportunity to test this assumption and ensure best value is achieved.

6.2 Healthwatch Lewisham will make a positive contribution to the successful local achievement of outcomes set out in national outcome frameworks for the NHS, primary care, the Council's Corporate Strategy, adult social care and public health paying particular attention to:

- Improved patient and user experience
- Improved communication
- Improved satisfaction with health in local area
- Greater patient and public involvement in health and social care commissioning and provision
- Strong relationship with commissioners and health and Wellbeing boards
- Improved access to services
- Improved understanding by people of their rights as a consumer champion
- High public awareness/profile of HWL

- Good image/trust of Healthwatch with the public. Recognition of HWL as a local authority funded organisation with local people to improve local health and social care services

6.3 The evaluation criteria will be price (50%) quality (40%) social value (10%). Quality will be evaluated by analysis of method statements produced by tenders including:

- developing knowledge
- management & operational structure
- equal opportunities
- raising the impact & influence of Healthwatch
- continuous improvement & quality assurance
- service outcomes & its delivery
- service development & accessibility (**see appendix 1 below**)

7.0 Value of the Contract

7.1 The contract value at its current level is £157,428 per annum (including the £50,000 for the NHS Complaints Advocacy service). The value of the new contract would be £629,712.00 over the full life of the contract.

7.2 Other Boroughs were contacted, as part of the sustainable and transformation partnership. A proposal was sent to the Royal Borough of Greenwich to work together to deliver a joint Healthwatch organisation as this was in line with similar cross borough initiatives which are being promoted as a way of sharing services and driving savings and public reforms. However, other Boroughs have either retendered or have not shown an interest in working with Lewisham. A response was not received from the Royal Borough of Greenwich.

Table 1 below outlines funding and contract renewal dates.

Table 1 (only Healthwatch funding)

Boroughs	Contract Renewal	Allocated Amt 18/19
Southwark	March 2017 – 4 years (2022)	£120,000
Bexley	2020	£100,000
Bromley	March 2018 – 2 years (2020 + 1)	£85,000
Lambeth	March 2019	£225,115
Greenwich	March 2020 +2	£129,000
Lewisham	March 2020	£107,428

8.0 Length of contract

The recommendation is to procure services for a three year period, with the option to extend for a further year. This would allow a degree of stability for the provider whilst ensuring flexibility for commissioners in a changing health and social care landscape.

9.0 Financial Implications

- 9.1 This report seeks approval to re-procure the Healthwatch Lewisham Service and the NHS Complaints Advocacy Service for an initial period of 3 years from 1st April 2020 with an option to extend for a further year.
- 9.2 The annual cost of the current contract is £157,428 (includes NHS Complaints Advocacy Service) and for three years the cost is £472,284.00. If the new contract were let at the same value the total cost over 4 years would be £629,712.
- 9.3 The contract is currently funded from the Local Reform & Community Voices Grant (£154,480) and the balance of funding from the adult social care base budget (£2,948).

10.0 Legal Implications

- 10.1 The contract referred to in the body of the report is a social/health contract above the Light Touch limit to which OJEU would apply (currently £615,278). The value of the services likely to be commissioned means that it is a Category A contract for the purposes of the Council's Contract Procedure Rules, as the estimated total value exceeds £500,000.
- 10.2 A Category A contract must be subject to a formal tender exercise and bidders must be invited to tender by a public advertisement, alternatively an OJEU compliant public consortium Framework, or dynamic purchasing system, must be used with competitive tender. The contract must be advertised through OJEU and the OJEU reporting requirements complied with.
- 10.3 The decision to award a contract would be a key decision that should go in the Key Decision plan.
- 10.4 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6th April 2011. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

- advance equality of opportunity between people who share a protected Characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

10.6 As was the case for the original separate duties, the new duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

10.7 The Equality and Human Rights Commission issued guides in January 2011 providing an overview of the new equality duty, including the general equality duty, the specific duties and who they apply to. The guides cover what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guides were based on the then draft specific duties so are no longer fully up-to-date, although regard may still be had to them until the revised guides are produced. The guides do not have legal standing unlike the statutory Code of Practice on the public sector equality duty, the guides can be found at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>

11.0 Equality Implications

11.1 Healthwatch engages with communities and groups that are often harder to reach or seldom heard and assist in influencing the reduction of inequalities in health and social care. The equalities impact will be monitored over the life of the contract.

12.0 Stakeholder Engagement

12.1 An engagement exercise will be undertaken to effectively involve local people including key partners in health and social care, service users and their families and carers to find out their views and experience of the local Healthwatch service and ensure there are opportunities for them to influence and shape the new service specification.

12.2 There will be a market engagement exercise with potential providers of the service to garner sufficient interest and will be undertaken in line with best practice.

13.0 Social Value Implications

13.1 Under the provisions of the Public Services (Social Value) Act 2012 local authorities are required to consider how economic, social and environmental well-being may be improved by services that are to be procured, and how procurement may secure those improvements.

13.2 The award criteria will include specific reference to Social Value and will require demonstration of the additional value gained by Lewisham residents through the delivery of the contract.

14.0 Conclusion

14.1 The Council is under significant financial pressures and will ensure that services commissioned are sustainable and have a positive impact on the wider community as well as service users.

15.0 The following papers were consulted in the development of this paper:

a. Healthwatch Lewisham 2017/18 annual report

Available at:

<https://www.healthwatchlewisham.co.uk/news/healthwatch-lewisham-annual-report-201718/>

b. Lewisham Council Corporate Strategy 2018 – 2022

Available at:

<http://councilmeetings.lewisham.gov.uk/documents/s61022/Draft%20Corporate%20Strategy%202018-2022.pdf>

c. Internal paper: London Borough of Lewisham (2018)

**Provision of Healthwatch Lewisham - Extension of Contract
Author - Head of Joint Commissioning to Executive Director,
Community Services, 5.12.18**

d. Internal Paper London Borough of Lewisham (2015)

**Re-commissioning of Healthwatch & NHS Complaints Advocacy
Author - Service Manager, Strategy & Policy to Executive Director
for Community Services, 9.11.15**

16.0 Appendices

**16.1 Appendix 1 - Method Statements for Healthwatch & NHS
Complaints Advocacy Service**

16.1 Appendix 1

Method Statements for Healthwatch & NHS Complaints Advocacy Service 2019

Method ref	Aspect of Quality (40% contribution)	Weighted Marks (%)
MS1	<p>Developing Knowledge How will you ensure that your staff and volunteers have appropriate levels of knowledge, understanding and experience of services and policy to deliver effective services? What action will you take to ensure that staff and volunteers are trained and upskilled as the health and care landscape keeps changing?</p>	5
MS2	<p>Management & Operational Structure Outline your planned delivery model for the service, including:</p> <ul style="list-style-type: none"> • staffing • capacity • organisational structure incl governance arrangements • visibility within the Borough • implementation by 1st April 2020 	5
MS3	<p>Equal Opportunities How will you ensure representative engagement from Lewisham's different communities, both within your governance and as part of service delivery</p>	6
M4	<p>Raising the impact & influence of Healthwatch How will you actively influence local policies, strategies and planning of health and social care services, working both collaboratively and as a 'critical friend' with commissioners and providers? What do you consider to be Healthwatch's key role within this?</p>	6
M5	<p>Continuous Improvement and Quality Assurance How will you quality assure the effectiveness of Healthwatch & providing value for money?</p> <p>Describe the approaches that your organisation will use to make these judgements</p>	6
M6	<p>Service Outcomes & its delivery Explain how you would ensure you meet the outcomes set out in the service specification. You should include what you will measure to demonstrate this, and how.</p>	6
M7	<p>Service Development & Accessibility How do you intend to provide effective information and signposting, NHS complaints advocacy & other service highlighted for Lewisham residents, ensuring that these are</p>	6

	accessible across a wide range of individuals and communities?	
	Other Areas for Assessment	Weighted Marks
	Social Value (10%)	10
	Please complete and return the schedule available in the Tender pack which asks Tenderers to respond to indicators of Social value activity for the contract	
	Price Criteria	50
	Bidders will be expected to agree to meet the price stated in the tender	