



Haringey Council

Report for:	Cabinet - 12 February 2013	Item Number:	
-------------	----------------------------	--------------	--

Title:	Procurement Report: Healthwatch Haringey
--------	--

Report Authorised by:	Mun Thong Phung, Director Adult and Housing Services
Signed:	Date:

Lead Officer:	Lisa Redfern Deputy Director, Adult and Community Services Email: lisa.redfern@haringey.gov.uk Phone: 020 84892326
---------------	---

Ward(s) affected: All	Report for: Key Decision
-----------------------	--------------------------

1. Describe the issue under consideration

- 1.1. The Health and Social Care Act 2012 (H&SC Act 2012) abolishes LINKs (Local Involvement Network) and introduces Local Healthwatch (LHW), and a national body – Healthwatch England (HWE), to provide guidance to the Local Healthwatch. Local authorities have statutory responsibilities for setting up Local Healthwatch bodies and monitoring their work. Local authorities also have responsibilities for contracting with organisations to support Local Healthwatch. Healthwatch needs to be established by 1st April 2013.
- 1.2. In commissioning a local Healthwatch, local authorities in England:
 - Will have some freedom and flexibility about what organisational form it will take; and
 - Are under a duty to act to ensure that their LHW is effective as well as value for money.
- 1.3. The Council originally wished to appoint an appropriate provider through an open tender process, however this was not successful due to the quality of the bids received, and no organisation was appointed. As the statutory duty to have a local Healthwatch organisation in place is set for 1st April 2013, officers have urgently considering alternative models, in consultation with the Department of Health and leads across London, through the London Healthwatch Commissioners Group.



1.4. This report proposes that an experienced local voluntary sector organisation is appointed, with an element of the Healthwatch functions to be subcontracted to another local voluntary sector organisation with experience and expertise to deliver this. Therefore, this report proposes the waiving of contract standard orders, due to the failure of the tender process, and the urgency of setting up Healthwatch by 1st April 2013, and agrees the award of a contract to the organisation specified in the exempt part of this report.

2. Cabinet Member introduction

2.1 I have high expectations of Healthwatch Haringey, as its key responsibilities are critical to Haringey residents in providing information and advice, advocacy, as well as supporting people who have concerns or complaints about their experiences of the NHS. Healthwatch will have an important role in health and social care in providing quality assurance across health and social care, and supporting statutory bodies with improving quality of care and in our commissioning decisions. I am pleased that local voluntary sector partners will be delivering this important service, and bring to the table local experience of what matters to Haringey residents and an ability to access hard to reach groups.

2.2 In this context I support the recommendations set out in this report to award a two year contract to Organisation A and with the sub-contracting by Organisation A to Organisation B one element of the new Healthwatch function, as set out in the exempt part of this report.

3. Recommendations

It is recommended that Cabinet:

3.1 Approves the waiver of tendering requirements of Contract Standing Order (CSO) 9.01 on the grounds that the nature of the market for the services is such that a departure from the requirements of the CSO's is justifiable (CSO 10.01.2 a)) and that it is in the Council's overall interest (CSO 10.01.2 d)). The waiver is required to meet the requirement of The Health and Social Care Act 2012 to have a local Healthwatch organisation in place by 1st April 2013;

3.2 Approves the award of contract under CSO 9.07.1 d) to Organisation A detailed in the exempt part of this report at Appendix 2, for a period of two years from 1st April 2013, with an option to extend for up to one year; and

3.3 Notes that, under the terms of the Council's contract, Organisation A will be required to sub-contract one function within the Healthwatch model to Organisation B, for a period of two years from 1st April 2013, with an option to extend for up to one year.



4. Alternative options considered

- 4.1. The Council has worked with the London Healthwatch Commissioners Group in developing the option set out in this report.

5. Background information

- 5.1 Local authorities have specific statutory duties in relation to LHW and ensuring that it has one in place by 1st April 2013. The duties include commissioning LHW, funding it, providing the contract reporting and management function to ensure that it is effective and delivers services within a value for money framework, and in line with the legislation. They also have a number of duties in relation to monitoring and reporting on the work of LHW.

- 5.2 The Health and Social Care Act 2012 abolishes Local Involvement Networks (LINKs). Healthwatch England, a national body has been established and is part of the Care Quality Commission. Local Healthwatch replace LINKs.

- 5.3 It is intended by the Government and Department of Health that Healthwatch strengthens the collective voice of users of health and social care and members of the public, both nationally and locally. LHW organisations have greater powers and responsibilities than LINKs, their predecessors.

- LHW must be a separate body from an already constituted organisation (i.e. having its own governance arrangements);
- It must be representative of the community it serves;
- It must cover both health and social care services for adults and children;
- It is a statutory member of the local authority's health and wellbeing board;
- It is required to provide an information, advice and signposting service for the public, including informing people how they can make a complaint if things go wrong;
- It has powers to request information from commissioners and providers of health and social care who must respond to its reports and recommendations, and to enter and view health and social care premises (except those providing care to children and young people); and
- It can alert the local authority, the NHS, Healthwatch England and/or the Care Quality Commission to concerns about specific health and social care providers and health and social care matters.

- 5.4 It should be noted that the Healthwatch legislation precludes a local authority or a health authority from directly delivering the independent LHW service. This is to minimise conflicts of interest as the LHW role is to scrutinise local health and social care services. The Council cannot establish an in-house Healthwatch Service



Haringey Council

- 5.5 The Council originally proposed that Healthwatch would be subject to an open tender process, and advertised the 'Invitation to Tender for the Provision of a Local Healthwatch Service' on the national Delta E-Sourcing System, as a contract opportunity on CompeteFor and on the Council's website on 26th October 2012. The tender closed on 3rd December 2012.
- 5.6 The Council received two tenders for this contract. Unfortunately, both tenders failed to demonstrate the ability to deliver the Service to the required quality standard set out in the Service Specification.
- 5.7 The open tendering process that the Council followed has demonstrated that there does not appear to be a sufficiently robust market for the provision of this Service. Some members of the London Healthwatch Commissioners Group¹ were concerned that their current open tendering route, despite extensive engagement and market development activities locally and across London, may not produce bids of sufficient quality to move to the award of contract. This has proved to be the case for Haringey Council.
- 5.8 Consequently, the Local Government Association publication: 'Establishing Local Healthwatch, Commissioning and Development', published in October 2012, notes that there is 'no one-size fits all' solution to commissioning Local Healthwatch. Instead, local authorities and their partners are developing models that respond to the needs and situations of their local areas. They also note that developing Local Healthwatch has proved to be an evolving process, and all areas have had to be flexible.
- 5.9 The Council now has to reconsider its options and make other arrangements for the establishment of this Service within the short timescale between mid February and 1st April 2013. This report seeks Cabinet approval to the award of contract to Organisation A.
- 5.10 The Council's contract will include the proviso that they sub-contract the Healthwatch community engagement and scrutiny functions to Organisation B. Their suitability and credentials as Provider and sub-contractor for the provision of the Healthwatch portfolio of services is set out in the exempt part of this report.
- 5.11 All services contracted to the Council are required to provide monitoring information, and contractual performance that is considered high risk in terms of risk of poor delivery against required outcomes and value for money, and require monitoring meetings with providers. As this is a new service, in order to support the providers the Council will closely monitor the contract. The providers of these services shall be required to meet with the Council quarterly for contract monitoring or more often as required, for at least the first year of the contract.

¹ The London Healthwatch Commissioners Group was established by the Joint Improvement Partnership of the Local Government Association, the Department of Health and the Care Quality Commission to support London Councils to prepare for and commission a LHW for their respective areas.



Haringey Council

Where any service is identified as underperforming, an action plan will be implemented to address issues.

- 5.12 The proposed organisations set out in the exempt part of this report, are considered to be delivering high quality services already for the Council. Within the Council's contract and the sub-contract, Organisations A and B will be required to support the Council in the completion of an Equalities Impact Assessment at the end of the first year of the contract, to ensure that the Healthwatch service delivery model is paying due regard to equalities issues that may arise through the delivery of services.
- 5.13 It is to be noted there is no provision for uplift over the life of the contract with this proposal to Cabinet. Should Cabinet agree to the proposal, officers will meet with the provider to finalise the terms of the contract and this may include agreeing further efficiency savings from providers at the end of year one.

6. Comments of the Chief Finance Officer and financial implications

- 6.1 This report requests Cabinet approval for a new two year contract from 1st April 2013 for the organisation set out in the body of this report, and the appendices.
- 6.2 The maximum value of the proposed new contract would be £200,000 per annum and this is currently budgeted for the departmental budget, including additional funding the Council will receive from 1st April 2013. It is noted that funding allocation has been confirmed for 2013/14 and 2014/15 by the Department of Health, and includes the baseline LINKs funding that the Council already has within its budget, and additional funding to support the new Healthwatch.
- 6.3 This is a new contract for a new kind of service. Normally procurement through a tender process would provide evidence that the selected provider offered the best overall value. However in this instance the procurement exercise was not successful and so it is important to obtain other assurance that value for money is being achieved. The Commissioning service within Adults will be putting in place robust contract monitoring and regular reviews of the service and possible efficiencies to provide this assurance.
- 6.4 Should demand for these services fall, or not be demonstrated through contract monitoring, the two year contract allows for termination following a three month notice period.

7. Head of Legal Services and legal implications

- 7.1 The Services to which this report relates are Part B services for the purposes of the Public Contract Regulations 2006. Therefore it has not been necessary to advertise this contract in the Official Journal of the European Union (OJEU).



Haringey Council

- 7.2 Under CSO 10.01.1 a) any individual provision of CSOs other than CSO 5 (which relates to the Public Contract Regulations) may be waived by Cabinet on the grounds set out in CSO 10.01.2.
- 7.3 This report is seeking a waiver of CSO 9.01 (requirement to tender) on the grounds allowed by CSO 10.01.2 a), namely that the nature of the market for the services is such that a departure from the requirements of the CSOs is justifiable and also CSO 10.01.2 d), namely that it is in the Council's overall interest.
- 7.4 The value of the proposed contract exceeds £250,000 therefore the award requires the approval of the Cabinet in accordance with CSO 9.07.1 d)
- 7.5 The contract is a key decision and has been included in the Council's Forward Plan (in accordance with CSO 9.07.1 e)).
- 7.6 The Head of Legal Services confirms that there is no legal reason preventing Cabinet from approving the recommendations in paragraph 3 of this report.
- 8. Equalities and Community Cohesion Comments**
- 8.1 In its Equality Opportunities Policy, the Council is committed to using, whenever possible, its procurement and commissioning functions as strategic tools further the aims of its public sector equality duty and ensure that it extends opportunity and access to Council contract and that those who win contracts provide services in a way that responds to the needs of all those the contracts are intended to serve.
- 8.2 Opportunity was provided to all, through an open tender which failed, demonstrating that there is no a developed market for the provision of this service.
- 8.3 Access to Healthwatch services to all will be ensured by appropriate specifications that will ensure that they reach all sections of the Haringey community including hard-to-reach groups.
- 8.4 The contract will include a requirement that the organisations that are proposed to be awarded the contracts support the aims of the Council's Equal Opportunities Policy.
- 8.5 However, it is noted that central to the successful delivery of this new service, is community engagement and increasing access to hard to reach groups, and therefore equality monitoring of access to Heathwatch will be implemented and a report completed at the end of the first year of this contract, to demonstrate that the Council can have confidence that the proposed provider(s) are working effectively with residents who may have protected characteristics. It is noted that this requirement will be built into the service specification of the contract.



Haringey Council

8.6 Where any gaps are identified, officers may need to review the service specification with the provider to ensure an action plan is developed that may include targeting specific groups.

9. Head of Procurement Comments

9.1 The recommendation is compliant with the Procurement Code of Practice.

9.2 The Market has been tested through an open tendering process and it has been shown that the market was unable to demonstrate the ability to deliver the Service to the required quality standard set out in the Service Specification.

9.3 This is a new service and Contract monitoring has been put in place to monitor contract compliance and VFM.

9.4 The Head of Procurement supports this recommendation

10. Policy Implications

10.1. Healthwatch Haringey is a new service created by the Health and Social Care Act 2012. It will have a seat on the statutory Health and Wellbeing Board and will be required to contribute to the development of the Joint Strategic Needs Assessment, and Health and Wellbeing Strategy.

10.2. Healthwatch Haringey will be an important local Health and Social Care Watchdog and Champion for Haringey's communities.

11. Reasons for Decision

11.1. Cabinet are asked to make this decision so that the Council is able to meet its statutory obligation to have an effective Healthwatch Provider and contract in place on 1st April 2013. Any delay to the already tight timescale reduces the likelihood of developing a professional, representative and accountable Healthwatch organisation that Haringey residents and stakeholders can trust and have confidence in.

12. Use of Appendices

12.1. Exempt Information under schedule 12A – Appendix A.

13. Local Government (Access to Information) Act 1985

13.1 The following background papers were used in the preparation of this report.

- The Local Government Association Briefing '*Establishing Local Healthwatch, Commissioning and Development*', published in October 2012; and



Haringey Council

- The Local Government Association Briefing '*Setting up and developing Local Healthwatch – an introduction for elected Members*', published in December 2012.

13.2 This report contains exempt and non-exempt information. Exempt information is contained in Appendix A of this report and is NOT FOR PUBLICATION. The information is exempt under the following category (identified in amended Schedule 12A of the Local Government Act 1972):

Information relating to financial business affairs of any particular person including the authority holding that information).