

4th December 2012		ITEM: <u>7</u>
Health <u>and Well-being</u> Overview and Scrutiny Committee		
Commissioning a local Healthwatch for Thurrock and an NHS complaints advocacy service		
Report of: Roger Harris / Janice Forbes-Burford		
Wards and communities affected: ALL	Key Decision: KEY	
Accountable Head of Service: Roger Harris		
Accountable Director: Jo Olsson		
This report is PUBLIC		
Date of notice given of exempt or confidential report: Not Applicable		
Purpose of Report: <ul style="list-style-type: none"> ○ To inform HOSC on the development of, and commissioning plans for, Healthwatch Thurrock in relation to the Health & Social care Act 2012, seeking approval to proceed in accordance with the recommendations made ○ To inform HOSC of the intention to participate in a commissioning collaborative with respect to the provision of NHS Complaints Advocacy services to Thurrock residents 		

EXECUTIVE SUMMARY

This paper sets out the current context for local Healthwatch, the work undertaken so far and seeks agreement for the next steps in commissioning, 1) local Healthwatch and 2) an NHS complaints advocacy service. It sets out a commissioning specification and proposed commissioning arrangements to make sure Thurrock has a representative, effective and value for money local Healthwatch and NHS complaints advocacy service ready to start on 1 April 2013,

1. RECOMMENDATIONS:

HOSC is asked to note the progress made with the establishment of Healthwatch Thurrock.

HOSC is asked to note the intention to commission a local Healthwatch via a grant funded route in accordance with the Health and Social Care Act 2012.

HOSC is asked to note the intention to enter into an agreement with other local authorities to commission POhWER to provide NHS complaints advocacy services for a period of one year by way of a grant.

2. INTRODUCTION AND BACKGROUND:

- 2.1 In 2008 the government established Local Involvement Networks (LINK) to represent patient/service users' interests in health **and** social care matters. LINKs were set up to be community-based, locally accountable networks, with a host organisation commissioned by the local authority to provide support services. LINKs were designed to strengthen the patient, public and user voice in commissioning, provision and scrutiny of local services. Thurrock LINK has proved to be a strong, nationally recognised champion for the patient /service user, demonstrating a thorough understanding of, and excellent relationships with, the various communities of Thurrock.
- 2.2 Following the passage of the Health and Social Care Act (2012), the Council has a responsibility to commission a local Healthwatch organisation to replace the LINK and an NHS complaints advocacy service to start on 1 April 2013. This report sets out the steps taken to date and a proposed methodology to make sure Thurrock has a representative, effective and value for money local Healthwatch and NHS complaints advocacy service.
- 2.3 Healthwatch will also have the responsibility to ensure that its local population has access to Health Information and Advice, specifically about primary health care services. This includes GPs, Pharmacists, Opticians and Dentists. This is currently provided by the Patient Advice and Liaison Service within the Primary Care Trust. However, in April 2013, the associated funding will transfer to Local Authorities as part of the Healthwatch allocation. It is intended to include this within the Healthwatch commissioning framework and therefore Healthwatch Thurrock will be accountable for ensuring provision of the above, either directly or indirectly, through contracting out.
- 2.4 The Government originally considered making the provision of NHS complaints advocacy one of local Healthwatch's statutory functions. It ultimately decided not to do this but to make upper tier local authorities responsible for commissioning an NHS complaints advocacy service from any

suitable provider. NHS complaints advocacy services are currently commissioned by the Department of Health under four Independent Complaints Advocacy Service contracts which cover the whole of England.

3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:

3.1 LOCAL HEALTHWATCH

What will local Healthwatch look like?

- 3.1.1 The Department of Health has stated that it will be for local authorities to decide how they commission and fund local Healthwatch; this may include grant in aid funding. These local Healthwatch organisations must be new corporate bodies established as social enterprises, carrying out statutory functions.
- 3.1.2 The Council has the flexibility to commission local Healthwatch according to local need and evidence of past success in patient and service user engagement. We also want to ensure that the robust, effective and efficient work progressed by Thurrock LINK will not be lost in this transition, but recognised and further strengthened. This is vital for the benefit of Thurrock residents in the future.
- 3.1.3 The Act now makes provision that local Healthwatch must be a Social Enterprise; it must be inclusive and operate for all parts of the community. The Department of Health specifically identifies the option to build on existing credible corporate bodies.
- 3.1.4 If local Healthwatch is to be truly representative then it must reflect the views of local users, patients and carers. It lends itself to being an “umbrella” and “co-ordinating” organisation, which makes it in many ways unsuited for a traditional “contract tendering” approach.

What will local Healthwatch do?

- 3.1.5. Healthwatch organisations will strengthen the collective voice of local people across both health **and** social care, influencing Joint Strategic Needs Assessments and joint health and wellbeing strategies – on which local commissioning decisions will be based – through its seat on every statutory health and wellbeing board. The new organisation will also cover children’s social care (something that LINK was not commissioned to do) although it won’t have powers of entry and view as it will for health and adult social care facilities.
- 3.1.6 From April 2013, Healthwatch Thurrock will become the voice of the patient and service user and:

- provide information and signposting to the public about accessing health and social care services and choice in relation to aspects of those services;
- make the views and experiences of people known to Healthwatch England helping it to carry out its role as national champion;
- make recommendations to Healthwatch England to advise the Care Quality Commission to carry out special reviews or investigations into areas of concern (or, if the circumstances justify it, go direct to the CQC with their recommendations, for example if urgent action were required by the CQC);
- promote and support the involvement of people in the monitoring, commissioning and provision of local care services;
- obtain the views of people 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 care services; and
- report and make recommendations about how those services could or should be improved.

What should its priorities be?

3.1.7 During a consultation exercise held by Thurrock LINK earlier this year, which was attended by approximately 150 people (individuals and established service user groups) some of the priorities were identified as:

- Finding out what people think about health and social care – and then telling people who provide these services
- Telling people who provide health and social care what they need to do to make things better
- Visiting places where people go for health and social care to make sure they are doing their job properly
- Helping people with their complaints and problems relating to health and social care.

3.1.8 Furthermore, Healthwatch must be involved in the local Joint Strategic Needs Assessment and the Health and Well-Being Strategy, offering community feedback and input

3.2 A Partnership Approach

- 3.2.1 The planning process to manage this development has been conducted throughout by the Council in partnership with Thurrock LINK and Thurrock CVS. A formal steering group with an independent Chair was set up which ensured all sections of the community were represented through established groups. Whilst it is the Council which remains accountable for commissioning Healthwatch Thurrock, this approach has supported genuine involvement and partnership and acknowledges the excellent work and reputation of Thurrock LINK, ensuring a positive legacy is taken forward to the new Healthwatch organisation.
- 3.2.2 The current Thurrock LINK is hosted (i.e. the Council has a contractual relationship for support services) by Thurrock CVS but with its own Steering Group which operates as a quasi management group.
- 3.2.3 Officers have considered various procurement and commissioning options but have concluded that the best way to ensure a secure and robust host organisation whilst at the same time maximising local community input would be through a joint arrangement with Thurrock CVS. Therefore we are not recommending a competitive tendering exercise but a grant aid agreement with the CVS acting as the host organisation due to its unique standing across Thurrock.
- 3.2.4 It is recommended that the current host to Thurrock LINK, Thurrock CVS, becomes a parent company to a new Healthwatch Thurrock. This will of course be an independent body with its own Board, but will share benefits and risks with an established and successful organisation. This will also enable the positive attributes of Thurrock LINK to be constructively exploited in the new social enterprise of Healthwatch Thurrock

Key to the delivery of a successful Healthwatch is a clear service specification that has been co-produced by services users, third sector groups and relevant representative groups. (This is attached as a separate document at **APPENDIX 1**)

3.3 The proposed Governance Model:

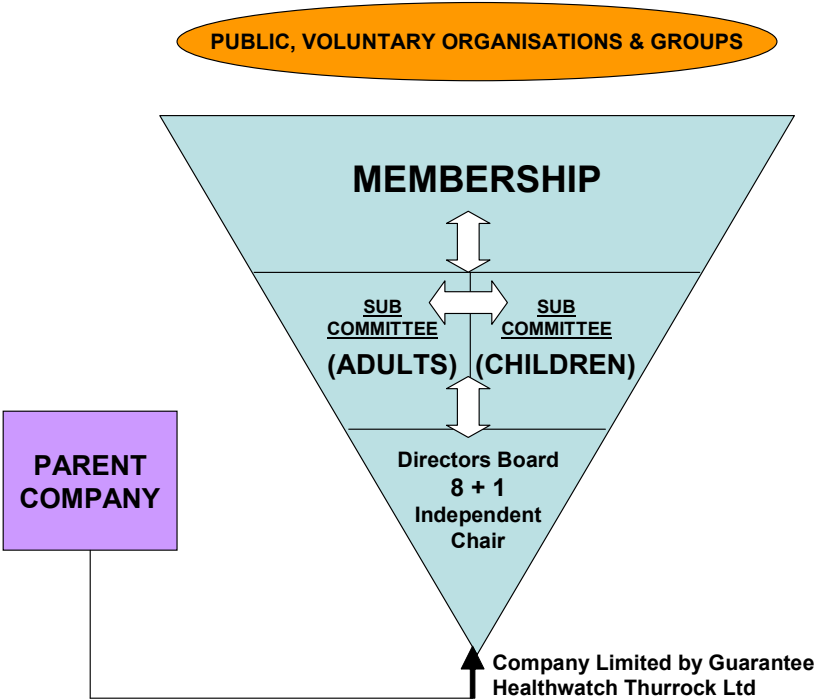
Internal

- 3.3.1 Thurrock Healthwatch would be a membership organisation, and hopefully most, if not all, of the main stakeholder groups will wish to become involved. It will be constituted with a Board of Directors appointed by and accountable to the wider membership, and be open and transparent in its work, with a requirement to report publically on its community benefit. The role of the Council is offering support and assistance to form the new organisation which best reflects the interests and needs of the local health and care stakeholders.

- 3.3.2 Thurrock LINK has always operated on the premise that every citizen of Thurrock is automatically a member of the LINK. It is suggested, based on a proposed model, that in future, both associate and full membership will be sought from the community; membership status will only differ in the commitment that individuals can offer with respect to actively supporting Healthwatch in terms of volunteering.
- 3.3.3 It will be essential that the Board of Directors and those involved in implementing the business of Healthwatch Thurrock are both capable and competent in order to ensure operational efficiency and effectiveness. A process of recruitment and selection will therefore be conducted inviting those individuals with skills and expertise in the areas required; these will cover the entire age range, specifically noting Children, as well as specific areas of disability as identified and agreed with the steering group.
- 3.3.4 One of the key aims of establishing local Healthwatch is to make sure that the very best of the LINK is not lost; in particular this means the many volunteers who contribute so richly to its work. Thurrock LINK has been fully involved at every stage in this evolutionary process and supports the proposed approach. The proposal is for LINK volunteers to transfer across to the local Healthwatch
- 3.3.5 The proposed internal governance structure can be seen below in Diagram 1.

DIAGRAM 1

Proposed Governing Structure – HealthWatch Thurrock



External Governance

- 3.3.6 As the commissioning body, the Council will monitor the contract awarded to Healthwatch Thurrock in the usual manner. However, as Healthwatch will be responsible for monitoring services from both health and social care providers, as well as being a critical friend from a commissioning perspective, it is vital that a degree of independence and transparency is achieved. It is suggested therefore that contract monitoring is undertaken by a corporate, non-service department of the Council thus minimising any conflict of interest and ensuring maximum objectivity.

3.4 NHS COMPLAINTS ADVOCACY

Current provision

- 3.4.1 NHS complaints advocacy is currently provided for the whole of the East of England by POhWER under an Independent Complaints Advocacy Service (ICAS) contract with the Department of Health. The current contracts ends on 31 March 2013 and the Council is responsible for commissioning a service from 1 April 2013.
- 3.4.2 POhWER is a not-for-profit company and one of the largest advocacy providers in the UK. It currently provides all of the statutory advocacy functions including Independent Mental Health Advocacy, Independent Mental Capacity Advocacy and Community and Specialist Advocacy services as well as ICAS. It has staff based in Essex

Proposed commissioning approach

- 3.4.3 Lead officers from the upper tier or unitary local authorities in the East of England have discussed the commissioning of NHS complaints advocacy and 9 of the 11 are proposing a joint way forward. The proposal is to jointly commission the current provider (POhWER) for one year using grant-in-aid funding, not competitive tender. The service would be commissioned within the resource envelope provided to each local authority and the general terms of the contract would be those contained in the Association of Directors of Adult Social Services (ADASS) Eastern Regional Contract. The service specification would be the existing Department of Health (DH) service specification with minor variations to acknowledge essential changes such as the new relationship with the local Healthwatch organisations. Participating local authorities would secure intelligence about the service and people's needs during 2013-14 to inform their approaches to longer term arrangements from April 2014.

3.4.4 The officers who are proposing this approach are from:-

Bedford Borough
Central Bedfordshire
Cambridgeshire
Essex
Hertfordshire
Luton
Thurrock
Peterborough

Bedford Borough Council has offered to act as lead commissioner. Draft quality standards for the service have been produced.

3.4.5 The advantages of adopting the regional proposal are:-

- Regional commissioning would be more cost effective than 9 separate commissioning exercises.
- It would deliver stability in a changing environment and provide the newly formed local Healthwatches with a single NHS complaints advocacy organisation to deal with.
- It would allow participating local authorities adequate time and better ability to effectively assess whether a local or regional solution to the requirement to provide NHS complaints advocacy would work best for their area from April 2014.

3.4.6 Delivery of the contract during 2013-14 would be overseen by a Strategic Commissioning Group chaired by Bedford Borough Council. Issues specific to a local authority area would remain the responsibility of that area's commissioner.

3.4.7 Local authorities are free to commission NHS complaints advocacy services from any suitable provider, including from local Healthwatch, if appropriate. Commissioning the service from local Healthwatch in Thurrock is not seen as a viable option in the short term. The current LINK2Healthwatch steering group currently involved in forming Healthwatch Thurrock have not expressed an interest in providing the NHS complaints advocacy service but will review this once the organisation is fully established and operational.

3.5 Resource Implications

Local Healthwatch

3.5.1 The current LINK contract is valued at **£112,000** per annum and this will be carried forward as a baseline for Local Healthwatch.

Further allocations of have been made based on the adoption by Healthwatch of responsibility for the provision of an effective Health Information and Advice

Service (previously the signposting and information service within the PCT Patient Advice and Liaison Service known as PALS) An additional amount has been made available as per the funding announcement made in October 2012. This will cover the periods of 13/14 and 14/15; however 15/16 is not confirmed.

Funding	Baseline	Transfer of PALS funding	Additional	TOTAL
Year 1 2013/14	£112,000	£37,357	£10,000	£159,357
Year 2 2014/15	£112,000	£37,357	£10,000	£159,357
Year 3 2015/16	£112,000	£37,357	To be confirmed	£149,357
Year 4 2016/17	£112,000	£37,357	To be confirmed	£149,357
Potential contract value of 3 yrs + potential 1 yr extension				£617,428

Therefore the financial implication for the contract period noted to commission Healthwatch Thurrock is **£617,428**

NHS complaints advocacy

- 3.6.2 Local authorities will receive additional funding to commission NHS complaints advocacy from 1 April 2013. The Department of Health has published indicative figures for each local authority in England. They use data from 2012-13 grant calculations which will be updated prior to the 2013-14 allocations and should therefore be treated as a guide only. The current indicative figure for Thurrock is **£39,939** and the total for the 9 local authorities who are proposing joint commissioning is £1,201,407. The indicative funding level is similar to the current funding of the service in the 9 areas.
- 3.6.3 The proposal is for each of the 9 authorities to commit the funding awarded for NHS complaints advocacy in 2013-14 and agree to be invoiced by Bedford Borough Council for that amount in the first quarter of 2013-14.
- 3.6.4 A decision will need to be made regarding the best future provision of this service to take effect in 2014/5. Work will be undertaken by the collaborative to inform this.

3.7 Next Steps

Local Healthwatch

- 3.7.1 It is proposed that the building process continues and that the current LINK Healthwatch steering group operates until January 2013 after which an appointed shadow local Healthwatch will be established to conduct business from January 2013, with an intention to commission and fund a 3 year contract with the newly formed Social Enterprise to deliver local Healthwatch from 1st April 2013 to 31st March 2016, with an option to extend for a further year.

3.7.2 The shadow period will be crucial in ensuring that local Healthwatch is in a position to deliver services from 1st April 2013. It is proposed that as part of the shadow period of preparation, the Council will set in any contractual documentation a number of measures that will determine the state of readiness around key outcomes. Shadow Healthwatch Thurrock will draw down funds from the £10,000 available during the shadow period by agreeing plans for achievement of these measures.

NHS complaints advocacy

3.7.3 It is proposed that Thurrock continues to work with the other 8 local authorities in the east of England who are interested in joint commissioning of NHS complaints advocacy in 2013-14. If all 9 or a viable number of local authorities agree to joint commissioning of POhWER's service for 2013-14.

4. REASONS FOR RECOMMENDATION:

Commissioning Healthwatch

- 4.1 The Council is required to ensure a social enterprise organisation is established to operate as Healthwatch Thurrock for its residents
- 4.2 The evolutionary method proposed ensures the positive legacy of Thurrock LINK is retained and developed, including organisational memory.
- 4.3 The proposed parent company to establish a Healthwatch Thurrock social enterprise is CVS; a well established, successful and respected local organisation. As it is currently the Thurrock LINK host, it has the relevant experience and knowledge regarding public engagement and participation.

NHS complaints advocacy

- 4.4 Regional commissioning would be more cost effective than 9 separate commissioning exercises.
- 4.5 It would deliver stability in a changing environment and provide the newly formed local Healthwatch organisations with a single NHS complaints advocacy organisation to deal with.
- 4.6 It would allow participating local authorities adequate time and better ability to effectively assess whether a local or regional solution to the requirement to provide NHS complaints advocacy would work best for their area from April 2014

5. CONSULTATION (including Overview and Scrutiny, if applicable)

- 5.1 The proposals have been developed in partnership with committee members of the current Thurrock LINK and Thurrock CVS as part of the Healthwatch Steering group. Furthermore an outline of the above was presented and accepted at a public meeting in October 2012.

6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 6.1 The establishment of *Healthwatch Thurrock* should further empower the voice of Thurrock citizens in terms of health and social care services within the borough. It will contribute to the delivery of the new Health and Well-Being strategic priority of the Community Strategy.
- 6.2 Commissioning an *NHS Complaints Advocacy Service* will ensure that Thurrock residents have access to the appropriate services when required.

7. IMPLICATIONS

7.1 Financial

Implications verified by: **Mike Jones**
Telephone and email: **01375 652772**
mxjones@thurrock.gov.uk

The cost of the contract is detailed within Para 3.5.1. This will be funded through a combination of existing financial resources, and additional monies that will be transferred into the Council in relation to the patient's advice liaison service and advocacy. Therefore, the contract costs will be contained within the overall resources of the Council.

Confirmation is required for the future of the patient advice liaison service funding in year 2015/16 and beyond.

7.2 Legal

Implications verified by: **Kar-Yee Chan**
Telephone and email: **01375 652938**
Kar-yee.chan@bdtlegal.org.uk

The setting up of a local healthwatch is governed by the Health and Social Care Act 2012 (the Act). Section 183 of the Act provides that the arrangements must be made with a body corporate which is a social enterprise that carries out statutory functions. It is up to local authorities as to how they commission and fund Local Healthwatch and this may include grant

in aid funding. Ongoing legal advice should be sought throughout the process to ensure compliance with all applicable legislation.

7.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**
Telephone and email: **01375652472**
sdealyn@thurrock.gov.uk

There are no direct implications from the commissioning of either local Healthwatch or NHS complaints advocacy.

7.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

None

BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):

- Health & Social Care Act 2012
- LGA Factsheet 9 – Local Healthwatch Funding updated 18/10/12

APPENDICES TO THIS REPORT:

- **Appendix 1 : Proposed Healthwatch Thurrock specification (DRAFT)**

Report Author Contact Details:

Name: Janice Forbes-Burford

Telephone: 01375 652812

E-mail: jforbes-burford@thurrock.gov.uk