Committee: Cabinet

Date: 12 November 2012

Agenda item: 4

Wards: All

Subject: Commissioning a local Healthwatch in Merton

Lead officer: Simon Williams, Director of Community and Housing

Lead member: Linda Kirby, Cabinet Member for Adult Social Care and Health

Forward Plan reference number: 1203

Contact officer: Kris Witherington, Community Engagement Manager

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Recommendations:

A. To agree to carry out a competitive tender to appoint an organisation to establish and manage Healthwatch Merton

B. To agree a contract length for Healthwatch Merton of two years with an option to extend for up to a further two years.

C. To agree to participate in a pan-London framework agreement to commission a NHS complaints advocacy service

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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The purpose of the report is to set out the options for commissioning a local Healthwatch organisation from April 2013. Cabinet are asked to agree the best process to pursue.

1.2. The report also sets out the discussions taking place for a pan-London approach to commissioning an independent NHS complaints advocacy service.

2 DETAILS

2.1. The Health and Social Care Act 2012 included a requirement on local authorities to establish a local Healthwatch in their area. This duty will replace the duty to establish a Local Involvement Network (LINk) from April 2013.

2.2. Local Healthwatch will take on the LINk’s responsibility for engaging patients, service users and the wider community to capture their experience of local services and encourage improvements

2.3. There is no prescriptive approach set out by the Act for procuring local Healthwatch. Currently the option to grant-aid an organisation is available, as is the option to pursue a competitive tendering process.

2.4. There are a number of options for the model that Healthwatch could use and the model selected will impact on the procurement route needed. The key issues that need to be decided locally are:

- **The operating model** – how the organisation manages the delivery of the services, who is involved and how that is controlled on a day to day basis
- **The governance structure** – how the organisation is controlled at a strategic level and who should have a say in the big decisions
- **The legal form** – this is driven by decisions made regarding the operating model and the governance structure
- **The commissioning process** – grant in aid or competitive tender

2.5. There are three broad options for establishing a Healthwatch in Merton that will meet the requirements set out in the legislation. These are:

i. Carrying out a competitive tender process to appoint a single existing organisation to establish and manage Healthwatch Merton

ii. Appointing a consortia or coaltion of existing organisations either through grant aid or a competitive process

iii. Creating a new independent organisation and providing grant-aid

2.6. A consultation on these options took place between July and September 2013. This incluced an online survey as well as discussions with the LINk Steering Group, the Citizenship and Inclusion Delivery Group, and the Shadow Health and Well Being Board.

2.7. The survey did not receive a high level of responses with only 26 submitted. When asked what operating model would be best half preferred the option of a single existing organisation taking on responsibility for Healthwatch Merton. Just over a quarter third (27%) stated that they would prefer a new independent organisation should be created. When asked about the governance structure for healtwatch just over a third (35%) felt that a membership body should elect or select a governing body. A slightly higher figure (39%) felt that the governance body should be created using a mix of methods. No one felt that individuals should be appointed. When asked about the procurement process 44% preferred a grant aid approach, 28% preferred a competitive tendering approach and 28% did not know.

2.8. Following discussions at the September meeting of the Health and Well Being Board a small reference group was estabished to further discuss the detailed option for Healthwatch. Members of the LINk Steering Group, voluntary sector representatives on the Health and Well Being Board, representatives of Merton CCG and NHS South West London were invited to participate.

2.9. The Reference group considered how the options and risks associated for the single organisation and new organisation could be taken forward as there had been no interest from local organisations in taking forward a formal consortium approach.

2.10. There was no clear consensus on which option would be preferred. Some of the group felt strongly that a new organisation would allow for clear accountability and independence for Healthwatch. Others were concerned that establishing a new organisation using unpaid trustees would be difficult and time consuming.

2.11. The potential benefits and risks associated with the two options are set out in the table below:

Option	Benefits	Risks
Developing a new company from scratch and grant-aiding it	Clear lines of accountability for the governance of Healthwatch can be established at the outset Seldom heard groups could be targeted Partnership working can be embedded from the outset Particular skill sets can be recruited against to supplement the community representatives A constitution will be set out before the start of the contract period	A new organisation will not have an established record of acheivement in delivering activities The trustees may not have experience of working together There will be no wider organisational infrastructure to rely on such as premises, IT, personnel management, and financial management. This may result in higher costs Establishing a new organisation before 1 April 2013 will incur costs. Any delay in establishing the organisation may mean a contract cannot be agreed and the Council would not meet its statutory obligations
An existing organisation takes on Healthwatch following a competive tender process	A contract can be in place before the governance structure is finalised Bidders may be able to offer creative solutions to governance issues An existing organisational infrastructure for premises, IT, personnel management, and financial management may reduce back office costs A competitive process may encourage better value for money Bidders would be expected to demonstrate local knowledge and experience of delivering similar activities The successful organisation would be responsible for the delivery of the contract so would have responsible for meeting the outcomes	No bids of sufficient quality are received A reduced level of community representation in the governance of Healthwatch could result in concerns about the independence of the organisation May not have sufficient local knowledge or willingness to work in partnership

2.12. Given the challenging history of LINk Merton there is likely to be concerns raised about any process not seen as independent and accountable. The option of a new company could present an opportunity to ensure a clean break from the past. However any recruitment process for trustees could still be open to challenge and could not guarentee sufficient quality of those involved. It could be possible to contract a local infrastructure organisation to support the establishment of the new company and provide initial training to the trustees. It would then be up to the trustees to ensure sufficient support structures are in place beyond 2013.

2.13. Given the timetable available to deliver Healthwatch and the relatively limited budget there are significant advantages to appointing an established organisation to deliver Healthwatch. This is likely to provide economies as a result of sharing back office functions and ensure an experienced organisation is responsible for the service. The contract would need to ensure clear lines of accountability and clarify how community views would be represented.

2.14. Whilst there are significant risks associated with both options it is recommended that a tender process be undertaken to appoint an existing organisation to establish and manage Healthwatch Merton.

Independent NHS Complaints Advocacy Service

2.15. The Health and Social Care Act 2012 also included a requirement on local authorities to establish an independent service to provide advocacy to those making complaints about NHS services. This duty currently sits with the Department of Health.

2.16. The current contract arrangements are based on a single provider covering a whole region and at the moment one provider covers London, the South East and Eastern regions.

2.17. A group of London commissioners have been working together to explore the option of a regional approach. Currently 27 boroughs are considering participating in a procurement process led by LB Hounslow under a framework agreement with a single provider.

2.18. The proposed model is for a core service including call centre, online self-help materials and initial assement, and then a demand led top up payment for more prolonged advocacy either by telephone or face-to-face.

2.19. This model presents some financial risk to the Council should there be a sudden and dramatic increase in complaints, as seen for example in the Mid-Staffordshire case, but based on the level of activity provided by the current contractor it is realistic to expect funding to not exceed the level of grant received from Department of Health.

3 ALTERNATIVE OPTIONS

3.1. It might still be possible to explore the development of a consortium approach. This could be done through a tender exercise that does not specifically exclude this option.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. A consultation took place between July and September 2013. This inclcued an online survey as well as discussions at LINk public meetings, with the LINk Steering Group, the Citizenship and Inclusion Delivery Group, and the Shadow Health and Well Being Board.

4.2. A draft specification could be published and comments invited within a short timetable, given the need to go out to the market in mid-November

5 TIMETABLE

5.1. Following the agreement of cabinet and allowing for call-in by Scrutiny, an invitation to bid would be placed by the week commencing Monday 19 November with a four-week period for bidders to respond.

5.2. A selection process including interviews would take place in January 2013 with a view to appointing a preferred supplier by the end of that month.

5.3. A public meeting will be scheduled in February or March 2013 for the new provider to explain their plans and for the public to be involved in setting the initial work plan for Healthwatch.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. Funding from Government for Healthwatch is available in the form of non-ringfenced grants. Government has committed to maintain the current level of funding for LINk through the DCLG Business Rate Retention Scheme for the remainder of the Spending Review Period. This was set at £125,000 in 2008 but since that time as the overall level of funding to the Council has been reduced the level of budget set aside for LINk has also been reduced. For the financial year 2012/13 £94,000 has been made available for LINk funding, although the contract with MVSC remains at £100,115.

6.2. Additional funding for the new areas of responsibility will be made available. In October 2012 Government announced an indicative allocation for the signposting function of £51,898 for 2013/14 and 2014/15. £10,000 of this funding will come through the DCLG Business Rate Retention Scheme and the remainder through a new grant from the Department of Health.

6.3. It is recommended that the contract for Healthwatch should be for a two year period with an option to extend for up to a further two years pending the outcome of the next Comprehensive Spending Review.

6.4. Government has given indicative funding for the NHS Complaints Advocacy responsibility of £44,785 for each year 2013-15.

6.5. The exact level of funding allocated to Merton will not be finalised until the funding settlement for 2013/14 is set out in December 2012.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. Merton Council will have a legal duty to contract a Healthwatch organisation from 1 April. This replaces the duty to contract a LINk host organisation. The Council will also have a duty to contract an independent NHS Complaints advocacy service.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. A core function of Healthwatch will be to represent patient, service user and public voices in health and social care services. Ensuring that all communities are engaged in this process will be a critical success factor that will need to be measured meaningfully.

9 CRIME AND DISORDER IMPLICATIONS

9.1. There are no crime and disorder implications

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. Healthwatch has a key role in identifying issues with health and social care services and making recommendations to Healthwatch England and the Care Quality Commission to carry out special reviews or investigations into areas of concern. Ensuring that that is a robust process for challenging poor performance will reduce the risk to patients and service users.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. Health and Social Care Act 2012