
Report to: Cabinet **Date of Meeting:** 13th December 2012

Subject: Commissioning options for Healthwatch and the Independent Complaints Advocacy Service

Report of: Director of Older People. **Wards Affected:** All

Is this a Key Decision? Yes **Is it included in the Forward Plan?** Yes

Exempt/Confidential No

Purpose/Summary

To enable Cabinet to determine the approach to be taken in commissioning a local Sefton Healthwatch, to commence on 1st April 2013, and the Independent Complaints Advocacy Service, the commissioning and contract monitoring of which Local Authorities have responsibility for from 1st April 2013.

Recommendation(s)

That Cabinet:

- (1) Note the indicative funding allocations published by government for these services and the commissioning options identified within the report; and
- (2) Approve the recommendations, at paragraphs 28 and 44 of the report, for the commissioning of Healthwatch and the Independent Complaints Advocacy service.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	√		
2	Jobs and Prosperity	√		
3	Environmental Sustainability		√	
4	Health and Well-Being	√		
5	Children and Young People	√		
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

Section 182 of the Health and Social Care Act 2012 imposes a duty on the Council to make contractual arrangements with a Local Healthwatch organisation for the involvement of local people in the commissioning, provision and scrutiny of health and social services.

Section 185 of the Health and Social Care Act 2012 transfers from the government to local authorities the duty to make arrangements for the provision of independent advocacy services for complaints relating to health services.

What will it cost and how will it be financed?

(A) Revenue Costs:

The proposed costs for Setting up a Local Sefton Healthwatch is £143,281 PA plus a one-off start-up grant (£19,996 non-recurring). Guidance from DH advises that Healthwatch should be funded from existing LINK (Local Involvement Network) budget (£91,050) together with additional new funding to be made available from April 2013. Indicative allocations have been provided and indicate an additional sum of £84,765 will be received by the Council for this purpose. Actual allocations will not be known until local government grant settlement figures are received in December

The Proposed cost for the Independent Complaints advocacy service is:

£50,011 for the year 2013/14 reducing to £46,601 for the year 2014/15. Again indicative allocations have been provided and indicate a sum of £90,626 will be received for this purpose. Actual allocations will not be known until local government grant settlement figures are received in December

(B) Capital Costs:

N/A

Implications:

Legal		
Section 182 of the Health and Social Care Act 2012 imposes a duty on the Council to make contractual arrangements with a Local Healthwatch organisation for the involvement of local people in the commissioning, provision and scrutiny of health and social services. Section 185 of the Health and Social Care Act 2012 transfers from the government to local authorities the duty to make arrangements for the provision of independent advocacy services for complaints relating to health services		
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

This report is to enable Cabinet to determine the approach to be taken in commissioning a local Sefton Healthwatch and the Independent Complaints Advocacy Service (ICAS). The report presents a number of options for each. Any implications for the new services or for the services they will replace are identified within each option.

What consultations have taken place on the proposals and when?

The Head of Corporate Finance and ICT has been consulted and any comments have been incorporated into the report (FD 1832).

Head of Corporate Legal Services (LD1150/2012) has been consulted and any comments have been incorporated into the report.

Consultations have also taken place with:

- Present Sefton LINK members and their host Sefton CVS via bi-monthly steering group meetings (2011/12)
- Sefton Strategic Integrated Commissioning Group (August 2012)
- Sefton Shadow Health and Well-being Board (September 2012)
- Sefton Health and Social Care Forum (September 2012)
- The South-Sefton and Southport & Formby Clinical Commissioning groups (September 2012)
- Sefton MBC People's Directorate People's Leadership Team (August 2012)
- North West lead officers for Healthwatch implementation group (Quarterly meetings from 2011/12)
- Merseyside & Cheshire Commissioning officers (2011/2012)
- Department of Health Policy Officers (June 2012)
- The Local Government Association (July 2012)
- Sefton Citizens via e-consult and Sefton LINK website from September 2012/ December 2012

Are there any other options available for consideration?

The options are contained within this report.

Implementation Date for the Decision

Healthwatch and the Independent Complaints Advocacy Service must commence by 1st April 2013. Local Involvement Networks will discontinue from 31st March 2013.

Contact Officers:

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Background Papers:

None

Background

1. The Health and Social Care Act 2012 amends the Local Government and Public Involvement in Health Act 2007 to make provisions for a Local Healthwatch as the consumer champion for health and social care services. Responsibility for commissioning this new service to replace the Local Involvement Networks (LINKs) from 1st April 2013 sits with Local Authorities. Local Authorities also have the responsibility to commission a Local Independent Complaints Advocacy Service which was previously commissioned by NHS. ⁽¹⁾
2. The purpose of this report is to enable Cabinet to consider the various commissioning options for a Local Sefton Healthwatch and Independent Complaints Advocacy service and officers' recommendations which reflect the views of the various stakeholders who have been consulted during the last year whilst LINKs have been preparing for the transition process for the implementation of Local Healthwatch.

Financial Implication - Healthwatch

3. A grant has been made available to Local Authorities in the 2012/13 to fund set-up costs for local Healthwatch, the Sefton allocation was £19,996. There will be additional financial resources made available for the years 2013/14 and 2014/15, the indicative amount for Sefton is £73,050 per annum for Healthwatch (This is in addition to the current amount included in the PSS Adult Social Care grant for LINKs.) ⁽⁹⁾
4. From 2008 the indicative budget from the DH for the running cost for Sefton Local Involvement Networks was £172, 000. per annum ⁽¹⁵⁾. The present running cost for Sefton LINK is £91,500 per annum. LINKs will cease from March 2013 but the guidance from DH advises that Healthwatch should be funded within the funding previously allocated for LINKs ⁽¹⁾ and the additional new funding which will be made available from April 2013 until March 2015.
5. The proposed costs for the running of a Sefton Healthwatch contained within the report are £143,281 per annum for the financial years 2013/14 and 2014/15 with a one off allocation of £19,996 set-up costs.

Financial Implications - Independent Complaints Advocacy Service

6. There will be funding made available to Local Authorities for the financial years 2013/14 and 2014/15 for the funding for the Independent Complaints Advocacy Service, the indicative amount for Sefton is £90,626 per annum ⁽⁸⁾.
7. The proposed costs for the service contained in the report is £50,011 for 2013/14 and £46,601 for 2014/15.

The Role of Healthwatch

8. The Department of Health has stated that "Local Healthwatch will make a positive contribution to the successful local achievement set out in national frameworks for the NHS, primary care, adult social care and public health. Particular attention will be paid to:

- Improved patient and user experience
 - Signposting the public to appropriate health and social care services
 - Improved communication
 - Improved satisfaction with health in Sefton
 - Greater patient and public involvement in health and social care
 - Stronger relationships with commissioners and health and well being boards
 - Improved access to services
 - Improving the understanding for people of their rights (consumer champion)
 - High public awareness/raised profile of local Healthwatch
 - Positive image, building trust between the public and Healthwatch” ⁽³⁾
9. Healthwatch will be encouraged to find creative solutions to achieving these outcomes and fulfilling its core functions. Performance will be judged on the following measures (n.b. this list is not exhaustive and may expand once the final regulations are issued in November this year) ⁽¹⁵⁾
- Numbers of members or community champions
 - Response rates to consultations
 - Joint work with other Healthwatch organisations in surrounding Boroughs
 - Supervision of volunteers
 - Follow up work with “enter and views”
10. The work plan for Healthwatch will be based upon the Joint Strategic Needs Assessment (JSNA). Local Healthwatch will have a statutory seat on local Health and Wellbeing Boards and use this position to promote the patient and public voice in commissioning and scrutiny. The responsibility of the Local Healthwatch representative on the Health and Wellbeing Board is significant. This person will be responsible for representing the diverse views of the wider population and must be supported by the rest of the organisation and its partners. The local Healthwatch representative should therefore have sufficient ⁽³⁾ access to expertise and service user experience. ⁽³⁾
11. Local Healthwatch will need to work with CCGs to integrate local people’s views into commissioning practices. Local Healthwatch may also work with CCG representatives on the Health and Wellbeing Board and may also have CCGs representatives on its own boards. Local Healthwatch representatives may also sit on CCG Boards and be non-voting members. ⁽³⁾

The Roles of Healthwatch England and the Care Quality Commission.

12. Healthwatch England has now been established. Healthwatch England will be a member of the Care Quality Commission (CQC). Under the Health and Social Care Act 2012, Local Healthwatch is required to make the views of local people known to Healthwatch England to make recommendations to them and to the CQC on special reviews or investigations to conduct where appropriate.
13. Healthwatch England will be required to provide Local Healthwatch with advice and assistance in carrying out its core functions. It will share best practice with Local Healthwatch organisations in an effort to create consistency across the country. Healthwatch England will escalate concerns raised by Local Healthwatch to the

CQC, the Secretary of State, the NHS Commissioning board and NHS & Local Authority commissioners who are required to respond to its reports and recommendations. ⁽⁸⁾

Establishing Local Healthwatch.

14. Government guidance states that it will be up to local authorities to decide how they commission and fund local Healthwatch and that this may include grant-aid funding. There is no automatic requirement to use the EU tender process but each case should be considered on its merits. The Government has made clear that while the final decision about what each local Healthwatch will look like is for the local authority, this decision should be made with the local community stakeholders and the existing LINK, this underlines the principles of good commissioning based on active engagement to understand local need. ⁽⁴⁾
15. Under the Health & Social Care Act 2012 the Local Authority must make its local Healthwatch arrangements with a body Corporate which:
 - Is a social enterprise and
 - Satisfies any additional criteria prescribed by regulation (secondary legislation).

In this context a social enterprise is defined as an organisation that acts for the benefit of a community or section of a community in England. ⁽⁴⁾

Commissioning options for a Local Healthwatch model in Sefton

Option 1: An organisation is commissioned to work with volunteers as independent collaborators. The contracted organisation is required to work with member volunteers from the (then) former Local Involvement Networks.

Advantages

16. A tender exercise could provide a range of voluntary organisations the opportunity to demonstrate business cases for establishing a Local Healthwatch service.

Disadvantages

17. This could be a lengthy process and as there is no guarantee of funding beyond 2014, one which may be viewed as a challenge to many organisations in the current economic climate.
18. There could be a lack of continuity of the work of the present Sefton LINK volunteers and the host organisation Sefton CVS who have developed local knowledge via the networks and tasks that have been undertaken in partnership with statutory organisations. (For example the work of the Sefton LINK Community Champions and their recent patient engagement work undertaken as part of the JSNA).

Option 2: The Local Authority establishes and commissions a new social enterprise to deliver local Healthwatch.

Advantages

19. Council's such as Staffordshire Council have taken this option via their Communities Division. This was established prior to 2009 in response to the publication of the report into the failings at the Mid-Staffordshire NHS Foundation Trust. Reports indicate that this has been considered a popular option for a large area such as a Shire County and Staffordshire have reported that they expect this model to be re-branded from 2013 as their Local Healthwatch. (6)

Disadvantages

20. This model may take considerable time and resources to set up and may not be viewed as being independent and objective as it would be Council owned.

Option 3: A transitional host is commissioned to help set up Local Healthwatch as a social enterprise which could be a trading arm of the host organisation

Advantages

21. There are a number of advantages to this option: including the continuity of the work undertaken by the Sefton LINK; the retention of local knowledge and networks established by Sefton CVS and retention of committed experienced volunteers. Sefton CVS have submitted a proposal to set up a Local Healthwatch as a subsidiary company limited by guarantee under the auspice of Sefton Council for Voluntary Services which is a registered charity. Sefton CVS have been advised by Charity Legal experts, Brabners of Chaffe St LLP, of the viability of this model. Sefton CVS have already established and facilitated a range of community empowerment networks including:

- Ability (Disability networks)
- Children, Young People & Families Network
- Embrace (LGB Network)
- Equal Voice (BME Groups)
- Fawcett Society Sefton
- Mental Health Forum
- Network South
- Police and Crime Commissioners network
- Sefton Access Forum
- Sefton Faith Communities Network
- Southport & Formby Forum
- The Health & Social Care Forum

22. The structure and inter-dependencies for the proposal submitted by CVS are provided in Appendix 1. The costs can be summarised as follows:

<u>Description</u>	<u>Cost</u>
Staffing Costs	£107,981
Other Costs	£35,300
TOTAL COST	£143,281

23. In addition to the above, it is proposed to make a one-off contingency payment of £16,050, for the period 2013-2015, this will be provided to fund marketing & Publicity, re-branding and events promoting the new Sefton Healthwatch and funded from the Healthwatch Start-up grant.

Disadvantages

24. The changes in the statutory responsibilities that will be required from Healthwatch may require a different skill set from board members which may or may not be those held by present volunteers. This can be overcome by developing new job descriptions and person specifications in accordance with further guidance expected from the LGA later this year.

Option 4: An Umbrella organisation is commissioned that oversees a range of providers who carry out the functions of Local Healthwatch. The responsibilities of sub-contractors may cover a specific function or a specific geographical area.

Advantages

25. Shared costs of back office functions across a Merseyside footprint could potentially provide economies of scale.

Disadvantages

26. Accessibility and location could prove problematic for existing volunteers thus increasing the risk of loss of the current expertise of current LINK members. (7)
27. Feedback from other Merseyside and North West Authorities has indicated that their own LINK members wish to have a local identity for their individual Local Healthwatch.

Recommendation

28. It is proposed that Cabinet consider Option 3 “*A transitional host is commissioned to help set up Local Healthwatch as a social enterprise which could be a trading arm of the host organisation*”, to be the most favourable option. Sefton CVS have the infrastructure and expertise to support this model to maintain a seamless transition from LINK into Healthwatch. Local Authorities have the option to use a tender waiver to grant fund an existing or new organisation to deliver Healthwatch and Members are recommended to approve this course of action.

Independent Complaints Advocacy Service

29. Section 185 of the Health & Social Care Act transfers a duty to commission independent complaints advocacy services from the Secretary Of State to individual Local Authorities. This transfer will take place on 1st April 2013. Whilst the funding to be made available is not ring-fenced and Local Authorities have a duty to ensure that local complaints advocacy operates effectively providing value for money, lack of a sufficient level of funding could jeopardise the quality of the delivery of this service.
30. The Government's Localism agenda supports the shifting of the commissioning of NHS complaints independent advocacy services from central government to Local Authorities as it feels that Local Authorities are better placed to determine what services are appropriate to be arranged for their local area and giving them responsibility for arranging them.
31. Independent advocacy services are services assisting persons making or intending to make complaints in relation to the provision of NHS services or the exercise of certain NHS bodies. They cover complaints made under:
 - Procedures operated by certain NHS bodies or providers of services
 - Section 113 (1) and (2) of the Health and Social (Community Health and Standards Act 2003)
32. NHS Complaints to the Health Service Commissioner in England or the Public Service Ombudsman in Wales are also covered. (9)

Current Service Provision

33. Independent complaints advocacy is currently provided on a national basis by the Independent Complaints Advocacy Service (ICAS). ICAS is a patient centred service, delivering support ranging from provision of self-help information, through to the assignment of dedicated advocates to assist individuals with letter writing, form filling and attendance at meetings. ICAS aims to ensure complainants have access to the support they need to articulate their concerns and navigate the complaints system.
 - ICAS staff use advocacy skills to provide practical support and direction to clients, in order to assist them in finding a resolution to their complaint.
 - ICAS's relationship with the client focuses on contact at each of the following points or activities in the NHS complaints procedure, those being:
 - Identifying what the available options and possible outcomes are, and deciding which option to take;
 - Making the complaint to the appropriate Trust(s);
 - Deciding how to proceed with the complaint, following the Trusts initial response;
 - Supporting clients during the local resolution phase by attending meetings or entering into correspondence;
 - Making a complaint to the Healthcare Commission;
 - Supporting the Independent Review stage by attending meetings or entering into correspondence;
 - Making a complaint to the Health Service Ombudsman;

- Understanding the Health Service Ombudsman’s final decision.
34. ICAS will also support clients with a grievance related to any aspect of healthcare that falls under the jurisdiction of the Health Service Ombudsman, such as complaints about poor treatment or service provided through the NHS in England. Whilst ICAS does not provide on-going advocacy for clients outside of the health related complaint, ICAS will suggest appropriate referrals for clients who require alternative, additional or specialist support, including referrals to PALS, professional bodies such as the GMC, and to specialist support such as medico-legal advice, bereavement support, mental health support, etc.
 35. The specification for the current service has been published by The Department of Health. There are currently three ICAS providers for England, The Carers Federation, POhWER and SEAP. The present provider in the North West, The Carers Federation Ltd also covers the East Midlands and the North East.
 36. DH and the LGA produced a fact sheet “*Healthwatch fact sheet - Independent complaints advocacy service*” outlining the indicative amounts for funding independent complaints advocacy for each Council. The amount shown for Sefton is £90,626. Like the Healthwatch funding this is not ring-fenced and Local Authorities have a duty to ensure best value to the local community.
 37. From 1st April 2013 the new ICAS service will be accountable to Local Authority commissioners; Local Healthwatch; Overview and Scrutiny and The Care Quality Commission.

Complaints Advocacy Data for Sefton Metropolitan Borough Council - April 1st 2011 to March 31st 2012

38. The Table below shows the volume of complaints taken through the present provider of the Complaints Advocacy service.

Table 1 Volume of Activity and 'Exports' Quantity	
Enquiries Received	699
Information Downloaded from Carers Federation Website	1949
Direct Advocacy Cases for residents of the local authority area *	37
% of residents' cases where the case refers to a health service in another area	35%
Prison Health Cases for residents of the local authority area	0
* This compares to 109 cases for the Liverpool Authority, 37 for the Knowsley Authority, and 15 cases for the Halton Authority.	

Commissioning options for Independent Complaints Advocacy in Sefton

Option 1: Local Authorities can commission Local Healthwatch to provide this service in addition to the Local Healthwatch functions

Advantages

39. Independent Complaints advocacy would have a local presence to work within Local Healthwatch.

Disadvantages

40. Feedback from Sefton LINK members and other Merseyside LINK members indicate that this type of advocacy is specialist and needs to be provided by experienced appropriately qualified advocates with the relevant expertise of dealing with formal Complaints against health services.
41. There could be TUPE implications for staff who currently work for the present provider of this service.

Option 2: Local Councils can collectively commission this service on a regional footprint.

Advantages

42. There are considerable economies of scale in considering this option. Furthermore the continuity of this service will ensure consistent standards of advocacy practice and support across boundaries. Local commissioners have worked in partnership to develop a specification and a predicted budget to provide this service. The table below indicates that last year there were a relatively low number of cases of formal health complaints supported through the present provider Carers Federation who are commissioned by the NHS.

<u>Description</u>	<u>Annual Cost</u> <u>2013/14</u>	<u>Annual Cost</u> <u>2014/15</u>	
Salaries	£310,000	£310,000	1 FTE manager @ £40,000 and 9 FTE Advocates @ £30,000 (inc on costs)
Overhead costs	£100,000	£100,000	
Start up costs	30,000	Nil	
Total	£440,000	£410,000	

<u>Authority</u>	<u>Population</u>	<u>1st year cost</u>	<u>Subsequent annual cost</u>
Knowsley	145,900	£26,650	£24,832
Liverpool	466,400	£85,191	£79,382
Sefton	273,800	£50,011	£46,601
St Helens	175,300	£32,020	£29,837
Wirral	319,800	£58,413	£54,431
Cheshire East	370,100	£67,601	£62,992
Cheshire West & Chester	329,600	£60,203	£56,099
Halton	125,800	£22,978	£21,411
Warrington	202,200	£36,933	£34,415
Total	2,408,900	£440,000	£410,000

Disadvantages

43. There may not be a local presence should an organisation outside the borough of Sefton be the successful bidder for the service. The service should however be promoted via Local Healthwatch and an expectation that advocates will, where required, provide outreach services.

Recommendation

44. It is proposed that Cabinet consider Option 2 the most favourable option. A new service specification is in draft and Liverpool City Council Commissioners have offered the services of their procurement team to run the tender on behalf of the neighbouring authorities. Each Authority will be given the opportunity to be part of the panel that will interview the organisations who are invited to tender following successful PQQ's. Members are recommended to approve this course of action, with Liverpool City Council leading the procurement exercise and Sefton Council being represented on the selection panel.

Appendix 1 - Structure and Inter-dependencies of Healthwatch delivered through Option 3

