

Committee Name and Date of Committee Meeting

Cabinet – 18 September 2023

Report Title

Re-procurement of a local Healthwatch Service

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Ian Spicer, Strategic Director of Adult Care, Housing and Public Health

Report Author(s)

Jacqueline Clark – Head of Prevention Early Intervention, Strategic Commissioning
01709 822358 or Jacqueline.clark@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

The current contract for the provision of a local Healthwatch service is in place until 31 March 2024. The service is due to come to the end of the contractual term with the extension clause having been exercised. A formal procurement procedure is now required in line with the Council's Financial and Procurement Procedure Rules (FPPRs) and procurement law to secure continued service.

The service was remodeled having previously been part of a contract arrangement which combined the Healthwatch and an advocacy service. The Healthwatch contract was re-let in 2020 to deliver a standalone service. This arrangement has achieved a successful service with a focus on all aspects of health and social care capturing peoples' needs, concerns and experiences.

The Healthwatch service is currently delivered under the brand, Healthwatch Rotherham, by Citizens Advice Rotherham and District.

In line with the Local Government and Public Involvement in Health Act 2007 it is the role of the Council to set up a contract or grant agreement with a social enterprise to ensure the service acts for the needs of the Rotherham community. The Council must now pursue commissioning activity to secure ongoing arrangements post the 31st March 2024.

The purpose of this report is to seek Cabinet approval for the Council to enter into a competitive tender to secure ongoing service from April 2024.

Recommendation

Cabinet to approve Option 2 to procure a local Healthwatch Service for a contract period of 3 years from 1st April 2024 to 31st March 2027 (with an option to extend for a further year) and Cabinet to note the increase in the contract value.

List of Appendices Included

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| Appendix 1. | Part A Initial Equality Screening Assessment. |
| Appendix 2. | Part B Full Equality Assessment. |
| Appendix 3 | Carbon Impact Assessment. |

Background Papers

[B3. Factsheet - Greater voice for patients \(300512\).doc \(publishing.service.gov.uk\)](#)
[Decision - \(ACH&PH\) Healthwatch - Rotherham Council](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Re-procurement of a local Healthwatch Service

1. Background

- 1.1 The Health and Social Care Act 2012 amended the Local Government and Public Involvement in Health Act 2007 to make provision for a national Healthwatch England and for a local Healthwatch. This is a statutory service, and each Local Authority is mandated to have a local Healthwatch.
- 1.2 Healthwatch Rotherham is expected to be the local consumer champion for patients, service users and the public, covering both health and social care for all ages, including children. It is also expected that they are a member of the Integrated Care Partnership, as part of the Integrated Care System, and Health and Wellbeing Board.

Their main statutory functions are to:

- Obtain the views of people about their needs and experience of local health and social care services and make these views known to those involved in the commissioning and scrutiny of care services.
 - Make reports and recommendations about how those services could or should be improved.
 - Promote and support the involvement of people in the monitoring, commissioning and provision of local health and social care services.
 - Provide information and advice to the public about accessing health and social care services and the options available to them.
 - Make the views and experiences of people known to Healthwatch England, helping them to carry out their role as national champion. Healthwatch England may use this evidence to advise the Care Quality Commission (CQC) to carry out special reviews or investigations into areas of concern.
- 1.3 Changes brought about by the Health and Care Act 2022 require locally funded Healthwatch to collaborate with counterparts in other areas to ensure that their statutory functions are delivered effectively across Integrated Care Systems and respond to, and play an active part in, the new health and care landscape and be involved in:
- Integrated Care Partnerships to develop the Integrated Care Strategy and attend partnership meetings.
 - Sharing system-wide relevant reports and recommendations, including annual reports, with the Integrated Care Boards.
 - Working with neighbouring Healthwatch to develop and deliver a system-wide strategy for engaging with people and communities.
- 1.4 In this contractual period the Healthwatch manager has attended strategic meetings including the Health and Wellbeing Board and Health Select Commission. The service has undertaken 'enter and view' visits in local care

homes and assisted the Council in its co-production work with unpaid carers to meet the priorities set out in the Borough that Cares Strategy.

- 1.5 Healthwatch Rotherham has also undertaken research and published wide ranging reports covering subjects such as: accessing dentistry, accessing GP services, how Rotherham residents access health and social care information, mental health (as a result of covid 19) changes to services brought about by the pandemic and barriers to accessing health and social care services when English is not the first language. Healthwatch also highlighted issues with accessing defibrillators in Rotherham Town Centre and were tasked by the Health Select Commission to find out about Rotherham residents experiences of Rotherham maternity services.

2. Key Issues

Contract:

- 2.1 The current contracted provision for the local Healthwatch Service is delivered by Citizen's Advice Rotherham and District and will end on 31st March 2024. There are no ongoing arrangements in place for service continuity of this statutory function.
- 2.2 In line with the Local Government and Public Involvement in Health Act 2007 it is the role of the Council to set up a contract or grant agreement with a social enterprise to ensure the service acts for the needs of the Rotherham community. The Council must now pursue commissioning activity to secure ongoing arrangements post the 31st March 2024.

Contract Value:

- 2.3 To ensure the local Healthwatch service is able to carry out its statutory function a budget of £161,262 is required to sustain a responsive local Healthwatch service in Rotherham.
- 2.4 In the current contract period, Healthwatch Rotherham was unable to attract and retain a manager as the salary was perceived to be non-competitive. In February 2022 an Officer Executive Decision approved the increase of the contract value to stabilise the service.
- 2.5 Whilst this intervention brought some stability there is a risk that the contract value may impede the capacity and capability of the Service especially at the advent of the changes brought about by the Health and Care Act 2022 (see 1.3).

3. Options considered and recommended proposal

3.1 Option 1 – Not recommended

Undertake a competitive grant process to establish a local Healthwatch Service:

This approach would offer an opportunity to the local Voluntary and Community Sector to apply to deliver the service within the expectation as prescribed under the Health and Social Care Act 2012, the Local Government and Public Involvement in Health Act 2007, and the Health and Care Act 2022.

- 3.2 In this option, the opportunity will be advertised locally and may attract a limited pool of potential competitors. There will be a reasonable expectation and no legal obligation that the subsequent grant funded service will deliver against the requirement.

Given the statutory nature of the service, Option 1 carries significant risks to the Council should the service performance deviate from the standard required.

Therefore, for the reasons set out in 3.1 and 3.2, Option 1 is not recommended.

3.3 **Option 2 – Recommended**

Undertake a competitive procurement exercise to establish a contract to deliver a local Healthwatch Service:

In this option, a competitive tender exercise to VCS organisations would be pursued. Applicant submissions will be assessed on their track record and achievements, approaches for delivery of the new contract and against the objectives of Integrated Care Partnerships/Boards and working with neighbouring Healthwatch in addition to how they:

- Engage with all people, including those with disabilities or disadvantage.
- Collect and analyse data and use this to effect change.
- Utilise and manage volunteers to expand the service reach.
- Engage local citizens in the work of the service.
- Train and manage staff.
- Understand local Safeguarding Procedures and how they will safeguard those people they come into contact with.

- 3.4 Following the tender, a legally enforceable contract will be established with the successful applicant as a means for robust contract management. This arrangement will ensure clarity around what is required from the provider, stimulate adherence to the terms of the arrangement and increase their level of accountability to the Council.

In line with 3.3 and 3.4, Option 2 is therefore the recommended option.

4. **Consultation on proposal**

- 4.1 As set out above the Local Authority is required by law to procure a Healthwatch service and to have it in place by 1st April 2024. There is no requirement for the Council to consult on the proposed procurement exercise.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The tender will be published late September 2023 and will be awarded in December 2023 to allow any transition to a new organisation to take place by 1st April 2024.

6. Financial and Procurement Advice and Implications

- 6.1 The Healthwatch Service is funded within the Adult Social Care revenue budget through the Local Reform and Community Voices (LRCV) grant and mainstream funding. The current budget is £101,000. This is made up of £90,000 LRCV grant and £11,000 mainstream funding.

- 6.2 The new contract value of £161,262. This will be funded by £90,000 of LRCV grant, £11,000 of current mainstream budget and £60,262 of Adult Social Care Commissioning funding and will be subject to ongoing discussions with partners.

- 6.3 Procurement:
The services described in this report would be classified as Social and Other Specific Services (“SOSS”) as defined in the Public Contracts Regulations (as amended) 2015 (“the Regulations”). The threshold for SOSS is £552,950 (net of VAT), £663,540 (inclusive of VAT). The estimated contract value of £161,262 per annum, equates to a total of £645,048 (net of VAT) and therefore above the SOSS threshold. As such, a competitive process in compliance with the Regulations should be undertaken and the recommendations detailed in this report align with this.

7. Legal Advice and Implications

- 7.1 Pursuant to the Health and Social Care Act 2012 the Local Authority is required to ensure that a local Healthwatch Service is in place for its area.

- 7.2 According to section 222 of the Local Government and Public Involvement in Health Act 2007, the Council must make arrangements with a body corporate that is a social enterprise and meets certain other requirements (if any) set out in regulations made by the Secretary of State.

- 7.3 The contract value of £645,048 is below the threshold requiring public procurement exercises for the purposes of the Public Contracts Regulations 2015 (that threshold is £663,540). However, it is above the threshold for an invitation to tender exercise for the purposes of the Council’s own Contract Procedure Rules.

Accordingly, the proposed procurement route described in this report is appropriate.

Panel Officers may wish to consult with Legal Services regarding the preparation of an appropriate contractual document.

8. Human Resources Advice and Implications

- 8.1 There are no implications for the Council. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), may apply from the existing provider to the new provider should they not be successful. The Council would not be directly involved in this process but would ensure that the TUPE information is available at the point of publishing the tender opportunity.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 The service is available to all ages and although procured by Adult Care, Housing and Public Health will support Children and Young People's Services by engaging the local community and influencing change in relation to services accessed by children and young people.

10. Equalities and Human Rights Advice and Implications

- 10.1 The service is available to all Rotherham residents. The requirements of the service specification ensures that the service monitors and provides evidence how it has reached and is available to all groups particularly those that are underrepresented. This is evidenced in the attached Equality Analysis.

11. Implications for CO2 Emissions and Climate Change

- 11.1 The carbon impact assessment demonstrates that the recommendations in this report will have minimal impact.

12. Implications for Partners

- 12.1. NHS partners, the SY ICP, the SY ICB, Rotherham Place ICB and Independent Sector partners will benefit from the work of a local Healthwatch Service proactively working with them to improve services as the consumer champion.

13. Risks and Mitigation

- 13.1 Any changes to the Local Reform and Community Voices Grant funding may impact on the future funding of the service.
- 13.2 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply which may affect an organisation's ability to put forward a financially viable application to provide the service. Without any effective engagement with interested parties, then the tender may fail due to insufficient interest.
- 13.3 In order to mitigate the risk of a lack of interested bids TUPE information will also be sought to clarify the position. An event will also be held with the market to stimulate interest in the opportunity prior to the tender being published. This approach, known as 'soft market testing', will let potential providers know about the Rotherham context, requirements, and expectations to help encourage credible bids.

14. Accountable Officers

Ian Spicer – Strategic Director Adult Care, Housing and Public Health
Scott Matthewman – Assistant Director, Strategic Commissioning, ACHPH

Approvals obtained on behalf of Statutory Officers: -

| | Named Officer | Date |
|---|----------------------|-------------|
| Chief Executive | Sharon Kemp | 04/09/23 |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Judith Badger | 30/08/23 |
| Assistant Director, Legal Services (Monitoring Officer) | Phil Horsfield | 25/08/23 |

*Report Author: Jacqueline Clark – Head of Prevention and Early Intervention. Strategic Commissioning, ACHPH.
Jacqueline.clark@rotherham.gov.uk*

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