

MUNICIPAL YEAR 2013/2014 REPORT NO. 47

MEETING TITLE AND DATE:

Council: 17th July 2013

REPORT OF:

Director of Health,
Housing and Adult Social
Care

Agenda – Part: 1

Item: 14

Subject: Implementing Healthwatch in Enfield – delivery of the Healthwatch functions

Wards: All

Key Decision No: 3665

Cabinet Member consulted:

Councillor McGowan – Cabinet Member Adult Services, Care and Health

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1. EXECUTIVE SUMMARY

1.1 The Health and Social Care Act 2012 introduced a statutory duty for, local authorities to establish, by incorporation or through commissioning, an effective replacement for the existing Local Involvement Networks (LINKs). Local Healthwatch organisations are being set up across the country, created by local authorities to ensure that the public and service users have a voice that influences health and social care services.

1.2 This report provides background and progress to date of the development and implementation of Healthwatch in Enfield and seeks full Council ratification to the creation of a Community Interest Company that will deliver Healthwatch functions in Enfield. .

2. RECOMMENDATIONS

The Council is requested to:

- 2.1 note the progress to date on developing and implementing Healthwatch in Enfield.
- 2.2 formally approve the creation of a Community Interest Company limited by guarantee, named as Enfield Consumers of Care and Health Organisation (ECCHO), that will take on the functions described in the Health and Social Care Act 2012.
- 2.3 note that subject to formal Council approval to establishment of the company, the Cabinet Member for Adult Services, Care & Health will be requested to agree by Portfolio decision, the provision of a grant (subject to conditions, including a satisfactory annual performance review) to ECCHO for delivery of the functions of the Local Healthwatch as provided under the Health and Social Care Act 2012 for the reasons contained herein.

3. BACKGROUND

- 3.1 Healthwatch Enfield will be at the heart of the local community, embracing Enfield's diversity, and playing a key part in enabling people to become active residents. As the independent local consumer champion for health and social care in the borough, it will effectively engage and involve individuals, organisations, professionals and the wider public to facilitate genuine improvements in health and social care services in Enfield.
- 3.2 Healthwatch Enfield will help to ensure people are aware of the health and social care services available to them and how they can get the best out of these services. It will also have a seat on the Enfield Health and Wellbeing Board, ensuring that the views and experiences of patients, service users, carers and others are taken into account when preparing local needs assessments and commissioning strategies, including the Joint Strategic Needs Assessment.
- 3.3 In its direction to local authorities, following the amendments to the Health and Social Care Act 2012, the Government is keen that Councils use flexible approaches in developing local Healthwatch organisations in the way that they think it will best serve their local communities. The Council has taken, and continues to take, account of the views of local people in making decisions about the way Healthwatch Enfield is set up and delivered.

3.4 In order to facilitate this process, officers ran two well attended workshops with residents and key stakeholders present. Approximately 150 people (interested individuals, voluntary and community organisations, patient, user and carer groups, local LINKs representatives) contributed to the visioning of Healthwatch Enfield with a particular focus on the organisational model. The Council also sought the views of the wider community through a postal and online questionnaire and through the Residents Panel survey. The Council is proceeding according to the overwhelming majority of respondent's feedback to this programme of engagement. It was agreed to:

- establish a Healthwatch Enfield Reference Group
- recruit a local Healthwatch Enfield Chair and Board members;
- support the development and implementation of a new independent Healthwatch Enfield organisation.

In response to the feedback from the consultation and engagement process the following action was undertaken:

3.5 Officers received more than 20 nominations for the membership of the proposed Reference Group. The purpose of the Reference Group, comprised of a broad representation from local voluntary and community groups, was to support the development and implementation of Healthwatch Enfield and to carry the messages of Healthwatch Enfield into the local community and to aid consultation. The Reference Group held its first meeting on 4th March 2013 and there was overall acceptance to the approach being taken to developing and implementing Healthwatch Enfield. It is envisaged that the Reference Group will play a key continuing role going forward, ensuring that the voice of Enfield people is heard.

3.6 In order to satisfy the requirements of the NHS bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 and to fulfil this statutory responsibility from 1st April 2013, the Local Authority was required to facilitate the set-up of a legally constituted body corporate in the form of a Community Interest Company in order to deliver the Healthwatch function. The Community Interest Company was limited by guarantee and named as 'Enfield Consumers of Care and Health Organisation' (ECCHO). This was identified as the optimal governance model for the activities which needed to be delivered. The main reason for this being that the Articles of Association allow for different types of membership of the organisation that have distinct and clearly defined roles and responsibilities. Whilst the Company has been incorporated there has been no trading activity, pending full Council approval being sought to

the establishment of the Company (as required under the Council's Constitution). Two Council officers, the Joint Chief Commissioning Officer and the Head of Finance, Environment and Adult Social Care, have been named as the Directors and Subscribers to the company. In addition an Independent Chair and four Board Members have been recruited, along with a Chief Executive Officer.

- 3.7 The role of the independent Chair will include leading and developing Healthwatch Enfield as an independent organisation, setting the strategic plan and direction and introducing strong governance to enable Healthwatch Enfield to represent the views of Enfield's residents. Four members of the local community have been recruited as the Board Members all with a variety of skills and experience. The role of Board Members will be to act in the capacity of Director and Trustee contributing to the strategic direction of Healthwatch Enfield and the organisation responsible for delivery of statutory functions, and ensuring effective service delivery, and strong governance and management. The purpose of the Chief Executive Officer is to secure improvements to local health and social care services by collecting and using locally expressed views in a powerfully persuasive way; meet all statutory, regulatory and contractual requirements and to devise and execute a strategy for the effective and efficient delivery of the roles of Healthwatch Enfield and the organisation responsible for delivery of statutory functions. The Reference Group referred to earlier was involved in all of the above recruitment processes, however none of the appointments to the Company have yet been implemented pending approval to the establishment of the Company being confirmed by Council. Subject to approval being received, the Council Officers will resign from their position in the company in order to allow the independent appointments to take up their position.
- 3.8 In addition to the steps set out in 3.6 above, an interim signposting function was also set up within the Council's Access service in order to fulfil the immediate statutory responsibility from the 1st April 2013. This was designed to respond to enquiries from members of the public and provide information or guide to a direction where they could get the relevant information regarding health services. A telephone number (020 8379 8119) was issued to Healthwatch England and to NHS partners and has been publicised. In addition arrangements have been made to host the local Healthwatch Enfield website which has been installed and is currently in the final stages of construction www.healthwatchenfield.co.uk.
- 3.9 Council is now being asked to formally approve the creation of the limited company that will deliver the statutory Healthwatch functions in Enfield. The Council will not be the owner or a member of this company and will not have a role in the company's business or decision making.

- 3.10 Subject to formal Council approval to establishment of the company, the Cabinet Member for Adult Services, Care & Health will be asked to agree the provision of a grant (for a 2-year term) with the option to extend up to a further 3-years (subject to conditions, including a satisfactory annual performance review), to ECCHO for the benefit of the Enfield community by the delivery of the functions of the Local Healthwatch as provided under the Health and Social Care Act 2012, subject to negotiation of a service level agreement that will contain proportionate light touch processes to provide assurances of and validate service delivery, for the reasons contained herein.

4. THE COUNCIL'S ROLE

- 4.1 The Council recognises and values the operational independence of ECCHO and does not have the power to determine its work programme. The Council will not be an owner or member of ECCHO but will develop a Service Level Agreement between itself and ECCHO which will set out agreed key outcomes, outputs and will contain proportionate light touch processes to assure and validate service delivery. ECCHO will be grant funded by the Council and funding will be disbursed on a regular basis throughout the term on the basis that ECCHO demonstrates its ability to carry out its functions effectively through regular reporting and effective liaison.
- 4.3 In the event that there is any serious deficiency in ECCHO's performance, the Council would agree a recovery plan with ECCHO. The recovery plan would entail whatever changes the Council deems necessary to rectify performance; and further funding might be dependent on acceptance of and progress against the recovery plan.
- 4.4 In the unlikely event of fundamental failure by ECCHO, the Council would have the option of terminating the Service Level Agreement early and finding alternative provider(s). This may entail a competitive procurement. In this event, the Service Level Agreement will provide for the transfer of certain assets. In particular the membership list and records of issues raised with Local Healthwatch, to the Council or to an alternative provider(s).

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 An alternative to this proposal would be to commission and procure an external third party provider to deliver the function in the long term or in the interim but this was not local stakeholders' preferred option.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The Health and Social Care Act 2012 states that local Healthwatch organisations must be a social enterprise (in the legal form of a Community Interest Company). Therefore in order to meet our statutory obligation, a body corporate was required to be in place for 01st April

2013. This report is now seeking formal approval to the establishment of the Company in accordance with the Council's Constitution.

6.2 The Council has a statutory responsibility (according to the Health and Social Care Act 2012) to commission and fund a Local Healthwatch in the borough that is effective and provides value for money. In a letter from the Director General for Social Care, Local Government and Care Partnerships, dated 2nd March 2012 and addressed to local authority chief executives to clarify their statutory duty to commission effective and efficient local Healthwatch organisations, it was stated that it will be up to local authorities to decide how they commission and fund local Healthwatch; this may include grant in aid funding with no automatic requirement to use the EU tender process and that each case should be considered on its merits.

6.3 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 in consultation with local community stakeholders : this underlines the principles of good commissioning based on active engagement to understand local need. From the extensive consultation and engagement carried out, local stakeholders asked for a new independent Local Healthwatch to be set up. The process described is consistent with the wishes of local stakeholders and is congruent with the approach being taken by other local authorities.

7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

7.1 Financial Implications

7.1.1 The authority has been awarded a grant from DoH for the implementation of a local health watch in 2012/13 and additional allocations in 2013/14. Any cost associated with the start up of the local Enfield Heath Watch will be met from the grant (DoH circular ref: 17068). Any costs above the level of grant funding will need to be met from existing Health Housing and Adult Social Care resources.

7.1.2 The proposal to set up a company limited by guarantee will ensure that the board of trustees are protected from personal liability for the company.

7.1.3 The company is required to be registered with companies house and submit annual accounts.

7.2 Legal Implications

7.2.1 The Council has a statutory duty under section 221 of the Local Government and Public Involvement in Health Act 2007 (as

amended by the Health and Social Care Act 2012) to make contractual arrangements for ensuring that certain activities set out in that section are carried on in the Council's area. These activities include promoting, supporting and enabling local people to be involved in the commissioning, provision and scrutiny of local care services. The details of the arrangement to be made are set in The NHS bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Health watch) Regulations 2012 (statutory instrument no 3094 ("the Regulations").

7.2.2 The Regulations require that the contractual arrangements are made with a social enterprise. On 18th April 2013 the ECCHO was incorporated as a community interest company on a not for profit basis. Section 1 of the Localism Act 2011 empowers the Council to do anything an individual may generally do unless the Council is expressly prohibited otherwise. The setting up of the company is in accordance with this power.

7.2.3 The Council must ensure compliance with its constitution in regards to the setting up of the company. Under the Council's Constitution the establishment of any companies or trusts or acquiring share capital in companies other than on behalf of the Pension Fund Investment Panel is listed as a matter reserved for Council. This report seeks ratification of full Council for the matters set out in section 2 of the report.

7.2.4 The Council must be mindful that any arrangements it makes the company following the incorporation must be in accordance the Council's Contract Procedure Rules, the Public Contracts Regulations 2006 and the European rules on state aid.

7.3 Property Implications

7.3.1 There are no property implications in regard to this proposal at this time.

8. KEY RISKS

8.1 Where risks exist to project delivery they will be closely managed through robust processes to assure and validate service delivery.

9. IMPACT ON COUNCIL PRIORITIES

9.1 Fairness for All

This proposal is aligned with the Council's aim of serving the whole borough fairly as it promotes inclusiveness and wider representation.

9.2 Growth and Sustainability

Building and funding a new local organisation would help promote growth and sustainability locally.

9.3 Strong Communities

The proposal aims to strengthen the voices of the local community in shaping and improving the local health and social care services they receive. This will have a positive contribution towards building strong and inclusive community.

10. EQUALITIES IMPACT IMPLICATIONS

10.1 The proposals will provide opportunities for all sections of the community to be able to shape an inclusive and responsive local organisation.

11. PERFORMANCE MANAGEMENT IMPLICATIONS

11.1 This proposal will primarily allow the Council to meet its statutory requirements.

11.2 Better public involvement will also contribute towards the Council achieving better care outcomes for its residents and better results in its performance management and assessment.

11.3 Effective, light touch and proportionate processes will be implemented that will monitor the results of activities and the delivery of outcomes. .

12. PUBLIC HEALTH IMPLICATIONS

12.1 Having a robust health champion reflecting resident needs and priorities will be essential in ensuring that local health services are responsive and equitable.

Background Papers

None included.