

Mrs Amanda Jupp, Cabinet Member for Adults and Health	Ref No: AH9 (19/20)
October 2019	Key Decision: Yes
Commissioning of Local Healthwatch and Independent Health Complaints Advocacy Services in West Sussex	Part I :
Report by Director of Public Health	Electoral Division(s): All
<p>Summary</p> <p>The Health & Social Care Act 2012 placed a statutory duty on county councils to commission a Local Healthwatch service (LHW) and Independent Health Complaints Advocacy service (IHCAS). Local Healthwatch are the <i>Independent Consumer Champion</i> for all West Sussex residents, recording and reviewing how they experience the quality of Health Care and of Social Care. LHW information and insight is then shared with the wider Health & Social Care system to raise service issues and influence future service commissioning. LHW provides information & advice to the public about accessing health & social care services and making choices in relation to those services.</p> <p>The service supports individuals to access information and <i>Independent Advocacy</i> if they need help to complain about NHS services. Local Healthwatch and IHCAS operate across the whole of West Sussex and improves health and social care via its publications, information sharing and a statutory place on the local Health & Wellbeing Board. Given its important statutory role the new contract will specify that LHW identifies and addresses priorities within a strategic process to best support the local and national Health & Social care system.</p> <p>In early 2019 Public Health undertook some market testing and research to enable scoping of any future commissioning for a service from April 2020. As an outcome it is recommended that a new service contract be awarded via an open tender procurement for a period of 5 years with an option for a further two years. The contract will be let at £342,600, the same cost as the current contract, with the option of inflationary uplifts at the Council's discretion and subject to the availability of funding.</p>	
<p>West Sussex Plan: policy impact and context</p> <p>The service in West Sussex is an information & advice service with a clear brand identity supported by a national body, Healthwatch England. The service can be the first point of contact for people in crisis situations and works with other voluntary and statutory sector organisations that operate within county, district and borough and parish boundaries. Through its advice offer the LHW service contributes to the following key West Sussex Plan objectives:</p> <ul style="list-style-type: none"> • Best start in life 	

- A strong, safe and sustainable place
- Independence for later life
- A council that works for the community

The current service in West Sussex is delivered by a significant number of volunteers (33 in 2018/19) with volunteering opportunities across the county. The service in West Sussex also supports better partnership working between the voluntary and the statutory sectors including the County Council, for example in promoting place-based local service reviews and the development of future volunteering opportunities.

Financial impact

The contract will be for 5 years with the option to extend for up to a further 2 years in order to provide an incentive to potential bidders and ensure market interest by providing financial stability, as per the previous contract period from 2012. Long-term funding is also an incentive to progress with and show evidence of service development to meet the changing needs and demographics of West Sussex. Funding is allocated from the Department of Health Local Reform & Community Voices (LRCV) grant which is currently £342,600 P.A. In the event the LCRV grant ceased during the contract period WSCC would need to find alternative funding or activate the break clause within the contract.

Recommendations

The Cabinet Member is asked to:

- 1) Approve the commencement of a procurement process for a Local Healthwatch service and Independent Health Complaints Advocacy service via an open tender process, from 1 April 2020 for a contract of up to 7 years duration at £342,600 per annum with a maximum total contract value of £2.549m.
- 2) Delegate authority to the Director of Public Health to award the contract to the bidder who submits the most economically advantageous tender which will include quality, price and performance elements for assessment.

1. Background and context

- 1.1 Local Healthwatch are the *Independent Consumer Champion* for all West Sussex residents recording and reviewing how they experience the quality of Health Care and of Social Care. The Health & Social Care Act 2012 placed a statutory duty on county councils to commission a Local Healthwatch service (LHW) and Independent Health Complaints Advocacy service (IHCAS).
- 1.2 The service provides information and advice to the public about accessing health & social care services and choices in relation to those services. In addition, the service supports individuals to access information and *Independent Advocacy* if they need help to complain about NHS services.

Local Healthwatch and IHCAS operates across the whole of West Sussex and brings together peoples' views and experiences to improve health and social care via its publications, information sharing and statutory place on the Health & Wellbeing Board.

- 1.3 In April 2012 Public Health placed the original contract for this service with Healthwatch West Sussex, a Community Interest Company (CiC). The contract was awarded for an initial 3 year period with the option (which was taken up) for 4 further years at an initial annual value of £584,000. In November 2016 the contract was reduced to its current value of £342,600 per annum, a reduction in value of approximately 40%. Work undertaken by Healthwatch England (HWE) in 2017 noted that the contract was the lowest value per head of population in the country.
- 1.4 Overall service performance from 2016 onwards has been good. Further value will now be required as a result of a new service specification detailing additional community development and network building functions.
- 1.5 In early 2019 Public Health initiated work to commission a service from April 2020 which included some market testing. This indicated that a small but potentially significant market of providers did exist to provide a combined LHW & IHCAS service. In the summer of 2019 Surrey County Council also re-procured their LHW & IHCAS service which confirmed that the market assessment for these services was correct. Consequently the proposal for an open tender procurement was taken to Procurement Board in April & September 2019 and the approach agreed.
- 1.6 IHCAS is currently provided by the Healthwatch West Sussex provider and options were appraised in August 2019 around the commissioning of this function as a separate stand-alone service or alongside other specialist advocacy provision. These options were reviewed in and whilst some benefits were noted, it was considered disadvantageous to separate the two services out as different contracts. The separation of the services would be potentially confusing for IHCAS clients as the service has for some time been associated with the Healthwatch brand. In addition, a stand-alone Healthwatch service would be less appealing to some potential providers and could reduce market interest in the forthcoming procurement due to reduced financial viability
- 1.7 As an outcome of the market testing and procurement work undertaken to date, it is recommended that a new service contract be awarded via an open tender procurement for a period of 5 years with an option for up to a further two years subject to a review of service need and performance over this period. The specification for the contract has been updated based on stakeholder engagement, a review of current performance data and an assessment of needs with specific focus on current & future Health & Social care issues.

2. Proposal details

- 2.1 The procurement of a LHW and IHCAS service via an open tender process, from 1st April 2020 for a period of 5 years with an option for up to an additional two years.
- 2.2 That the contract is let at the same price as the current contract with the option of an inflationary uplift for the agreed duration of the contract at the County Council's discretion and subject to funding availability. The contract is currently funded by the Local Reform and Community Voices (LRCV) grant from the Department of Health.
- 2.3 The maximum price tender will be set at £342,600 for Year 1 with value for money bids encouraged up to this amount and innovative delivery model sought through experience of service delivery in this field & innovation.

3. Consultation

- 3.1 The proposed specification has been designed incorporating learning from local delivery of Healthwatch and IHCAS and sharing learning and practice from the commissioning of these functions in other local authority areas. The specification has been consulted on with a stakeholder group for the purposes of development, to endorse the principles of the specification and in order to support assurance around robustness and quality. Subsequently it has been tested with internal business partner areas (Finance, Legal, Procurement) to determine that it meets local requirements, is fit for purpose and supports social value.
- 3.2 The current provider undertakes regular surveys and additional evidence has been collected to allow for commissioning in 2020 through effective performance monitoring.

4. Financial (revenue and capital) and resource implications

- 4.1. The contract will be let at a maximum of £342,600 for Year 1, with the option to apply an uplift in future years at the County Council's discretion and subject to the availability of funding.

	Year 1 2020/21 £m	Year 2 2021/22 £m	Year 3 2022/23 £m	Year 4 2022/23 £m	Year 5 2022/23 £m
Local Healthwatch and IHCAS budget	0.343	0.350	0.357	0.364	0.371
Cost of Proposal	0.343	0.350	0.357	0.364	0.371
Remaining budget	0	0	0	0	0

5. Legal implications

- 5.1 The County Council has a statutory obligation to commission LHW and IHCAS in accordance with the Health & Social Care Act 2012. These services also contribute to the Council's general duty to provide information and advice services and prevent escalation to long term care services in accordance with the Care Act 2012.
- 5.2 Under Part 3 of the Council Constitution (the Responsibility for Functions) functions in relation to Public Health have been delegated to the Director of Public Health.
- 5.3 The value of this procurement is considered a Key Decision as it will result in the Council incurring expenditure which is significant as decided by the Council. In accordance with the Council's constitution, this is expenditure over £500,000. It will also be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in West Sussex. The award of the contract will also require a Key Decision which must be published in the Council's Forward Plan at least 28 days before it is made and will be subject to a 7 working day call-in period after it has been made.
- 5.4 The Council is a Contracting Authority as defined in the Public Contract Regulations 2015 ("PCR") and as such is governed by those regulations. The value of the proposed contract for the purpose of the regulations will be £2.549.
- 5.5 The value of the proposed contract is therefore above the relevant EU Threshold as referred to in the PCR of £615,278 for Social and other specific services ("Light Touch Servicers"). As such the Council will competitively tender these services in accordance with the procedures set out in the PCR.
- 5.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") is likely to apply on the commencement of the new contract should there be a change of service provider. This will not result in staff transferring to or from the Council. The Council has adequate contractual provisions in place in the existing contract to facilitate the transfer of relevant information between old and new provider above and beyond the statutory provisions which should ensure a smooth transfer of service.

6. Risk assessment implications and mitigations

- 6.1 There are a number of risks associated with this decision that have been identified and taken into consideration, as follows:
 - a. **Lack of bids:** It is highly likely a low number of bids will be received. Officers will continue to engage with suppliers and publicise the opportunity as widely as possible, in an attempt to encourage bids. The tender documents will be designed to ensure they are accessible by smaller CICs, whilst ensuring they are appropriately robust.

- b. **Payment in arrears:** By moving the payment terms to 30 days in arrears, the successful provider will need suitable cash flow for implementing the service and delivery in the first months. This risk is considered to be reasonably low, as the successful provider may be currently operating an existing Healthwatch service in other local authorities.
- c. **Mobilisation and delivery of a seamless service:** The aim of LHW is to be an integral part of the Health and Social Care system in West Sussex. This takes time to establish and the proposed two month mobilisation period may be challenging for a new provider. This risk will be mitigated by scrutinising and evaluating mobilisation proposals as part of the tender and ensuring commissioners work closely with the successful supplier once the contract has been awarded.
- d. **Existing staff:** There are existing staff that will likely be eligible for TUPE, providing an opportunity for an initial staffing pool. Existing terms for incumbent staff are not considered to be unattractive for any prospective bidders.

7. Other options considered (and reasons for not proposing)

- 7.1 During the course of 2019 Public Health as commissioning lead and procurement, legal and finance project leads considered the potential for combining the IHCAS commissioning element within the wider advocacy commissioning that is being undertaken by the County Council. These options were appraised jointly with advocacy commissioning leads. While there were some possible advantages to this approach the separation of the LHW and IHCAS services was seen to be detrimental to public awareness of the IHCAS and service delivery and a limitation on financial viability. Therefore a decision was made to retain a combined service specification for both services as per the previous contract period.

8. Equality and human rights assessment

- 8.1 There is no adverse impact on people with protected characteristics covered by the Equality Act 2010. The service is universal in nature and therefore available and accessible by the whole population of West Sussex. Given its key role we would want LHW to address equity of access and health and care equalities as a priority and within a strategic process to determine priorities in the local health and care system.

9. Social value and sustainability assessment

- 9.1 The social value outcomes proposed in the aims of the service support the ambitions of the West Sussex Plan through:
 - Ensuring more opportunities for disadvantaged people and promoting local skills and employment

- Helping people live a healthy family, home and work life
 - Utilising volunteering opportunities and local partnerships with the VCS to provide a sustainable and thriving business and strengthen social and community capital
 - Supporting a strong community to be involved in local health & social care provision
 - Empowering residents to take responsibility for their choices to improve their lives, health and wellbeing
- 9.2 The service will deliver value for money as the *Independent Consumer Champion* for all West Sussex residents, recording and reviewing how they experience the quality of Health Care and of Social Care. In addition, the service supports individuals to access information and *Independent Advocacy* if they need help to complain about NHS services. The combined services prevents escalation to crisis, generates wider social and economic benefits amongst other local services by reducing demand and helps resolve complex issues before there is a need to access intensive support services.
- 9.3 The service will operate multiple access points to increase sustainability and reduce the impact on the environment by operating in local areas and offering a telephone, email and online chat service. It will consider the impact of transport in the provision of the service by utilising assets in local communities, ensuring that travel is kept to a minimum and the carbon footprint of the service is low.
- 9.4 This service will generate added social value by utilising an effective and diverse volunteer workforce to achieve its aims, reflective of the local community and the individuals using the service. The recruitment, training, support and retention of volunteers and the building of skills for employment will form part of its core business ethos. The volunteer base will have equal opportunities in all areas of the service, including job opportunities and professional skills development.
- 9.5 The service will also promote a positive infrastructure for volunteering within West Sussex. The service will be a centre of excellence for recruitment, training, deployment and retention of volunteers in the delivery of triage and general advice services. This includes recruiting volunteers that can accommodate the diversity of needs in West Sussex to broaden the accessibility of the service.
- 9.6 The service will take an active role in local and county partnerships in order to fulfil their role as an influencer and maximise social value. It will develop effective links with other public and voluntary sector services and work with all relevant partners to enable clear pathways.
- 9.7 It is also expected that where the service is asked to support funding partners in the delivery of a targeted service in a particular area or tackling a specific issue (e.g. public health campaigns) that it will respond positively within its resources and remit. Work will be carried out at a local level and

include other organisations in the community and the local authority where appropriate to maximise the impact of the proposed social value benefits.

- 9.8 The service will ensure that its clients and other organisations can contribute to its development. This will enable the service to identify trends and respond to changing needs and effectively report on Health & Social care service provision in West Sussex that may inform future commissioning decisions and investment in preventative services.

10. Crime and disorder reduction assessment

- 10.1 The provision of advice and support to clients in crisis may have an impact in reducing crime and anti-social behaviour in West Sussex.

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Appendices - None

Background Papers – Examples of quarterly Healthwatch & IHCAS reporting can be found here: <https://www.healthwatchwestsussex.co.uk/board-meetings>