

REPORT TO CABINET

25 July 2018

Subject:	Re-procurement of a Local Healthwatch Service for Sandwell
Presenting Cabinet Member: <input type="checkbox"/>	Councillor Ann Shackleton - Cabinet Member for Social Care
Director: <input type="checkbox"/>	Executive Director of Adult Social Care, Health and Wellbeing – David Stevens
Contribution towards Vision 2030: <input type="checkbox"/>	 
Key Decision:	Yes
Forward Plan (28 day notice) Reference:	SMBC13/07/2018
Cabinet Member Approval and Date:	Cllr Shackleton – 27/6/2018
Director Approval:	David Stevens – 27/06/2018 Stuart Lackenby – 27/06/2018
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor (s) Consulted (if applicable):	Ward Councillors have not been consulted.
Scrutiny Consultation Considered? <input type="checkbox"/>	Scrutiny have not been consulted.
Contact Officer(s):	Justin Haywood Operations Manager for Commissioning 0121 569 5504 Sheena Rafiq Commissioner 0121 569 5689

DECISION RECOMMENDATIONS

That Cabinet:

1. Approve the re-procurement of a Local Healthwatch Service in Sandwell.
2. Authorise the Executive Director- Adult Social Care Health and Wellbeing to enter into a contract for a Local Healthwatch Service in Sandwell.
3. In connection with 2 above, authorise the Director-Monitoring Officer to enter into a contract with the successful tenderer for a period of 3 years with the option to extend this by two periods of one year each on terms to be agreed by the Executive Director – Adult Social Care, Health and Wellbeing.
4. Any necessary exemptions be made to the Council’s Procurement and Contract Procedure Rules to allow a contract to be awarded to the successful tenderer for Local Healthwatch Service in Sandwell.
5. In connection with 2 above, authorises the Executive Director - Resources to offer a lease to the successful tenderer for the office accommodation at Walker Grange, Tipton on terms to be agreed by the Director - Regeneration and Growth.

1 PURPOSE OF THE REPORT

- 1.1 This report seeks Cabinet approval for the Council to commence the re-procurement of a Local Healthwatch Service in Sandwell to ensure that the Council continues to meet its statutory responsibility to have in place a Local Healthwatch service as set out in Part 14 of the Local Government and Public Involvement in Health Act 2007 (and Part 6 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.
- 1.2 This process includes a review of the current specification to take account of both Healthwatch England’s guidance on the re-procurement and contracting of Local Healthwatch services and the views of key stakeholders.
- 1.3 The report also seeks authority for the Director-Monitoring Officer to enter into a contract with the successful tenderer for a period of 3 years with the option to extend this by two periods of one year on terms to be agreed by the Executive Director for Adult Social Care, Health and Wellbeing and that;

- 1.4 If fewer than 3 tenders are received authorise an exemption to Procurement and Contract Procedure Rules 2018-19 is sought to allow a contract to be awarded to the successful tenderer.
- 1.5 In accordance with 8.11 of the Procurement and Contract Procedure Rules 2018-19 If only one bid is received an exemption will be required to award the contract as per Rule 15. The report accompanying the exemption request will set out how the received bid represents value for money

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 This report contributes to Ambition 2 – Healthier and Safer for Longer through:
 - Encouraging people to take more responsibility for improving their own health and the health of their families;
 - Promoting excellent co-ordination between social care and the NHS;
 - Preventing ill health and improve long-term health and wellbeing; and
 - Protecting our most vulnerable adults and children.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The Council has a statutory duty to commission a Local Healthwatch service for the Borough. Healthwatch is the independent consumer champion for health and social care.
- 3.2 The current contract, which is funded from the Department of Health's Local Reform and Community Voice Grant allocation is due to expire on 31 March 2019 and no further extensions are contractually possible.
- 3.3 This report seeks Cabinet approval for the Council to commence the process of procurement of a Local Healthwatch Service in Sandwell and to award a contract, to be effective from 1 April 2019, to the successful tenderer through a process compliant with the Councils Procurement and Contract Procedure Rules 2018-19.

4. THE CURRENT POSITION

- 4.1 At present the Local Healthwatch Service is provided by Healthwatch Sandwell, a Community Interest Company (CIC), to whom a contract was originally awarded in March 2013 for an initial term of 2 years with an option to extend for a further 1 year under a direct award approved by Cabinet.
- 4.2 This was followed by a further Cabinet approved Direct Award providing a contract end date of the 31 March 2019.

- 4.3 As a minimum, there are seven statutory functions delivered by a Local Healthwatch services. These are:

Function 1- Gathering views and understanding the experiences of people who use services, carers and the wider community;
Function 2 - Making people's views known;
Function 3 - Promoting and supporting the involvement of people in the commissioning and provision of local care services and how they are scrutinised;
Function 4 - Recommending investigation or special review of services via Healthwatch England or directly to the Care Quality Commission (CQC);
Function 5 - Providing advice and information about access to services and support for making informed choices;
Function 6 - Making the views and experiences of people known to Healthwatch England and providing a steer to help it carry out its role as national champion;

The **7th Function** which is the provision of NHS complaints advocacy is contracted under a separate contract with a specialist advocacy provider.

- 4.4 At this point in time, there is no commitment from Central Government of longer term funding for a Local Healthwatch service beyond a year on year allocation through the Community Voices grant. However, the timescales involved in repealing the statutory duty for Local Authorities to provide a Local Healthwatch service in its area gives sufficient confidence for the Council to enter into a new contract for a minimum of 3 years.
- 4.5 Should, there be a change to this statutory requirement then the contract shall contain sufficient clauses to enable the Council to withdraw from its contractual obligations, if so required, with appropriate notice periods for both parties.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 As part of the process to re-procure the Local Healthwatch Service for Sandwell the Council shall carry out engagement with key stakeholders in relation to developing the specification for the service and advertising the tender opportunity to the market.

6 ALTERNATIVE OPTIONS

- 6.1 Part 14 of the Local Government and Public Involvement in Health Act 2007 (and Part 6 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 places a statutory duty on Local Authorities to make provisions for a Local Healthwatch as the consumer champion for health and social care services in their respective areas we have no alternative but to commission an external and independent provider to deliver a Local Healthwatch Service.

7. STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The current contract is funded from the Department of Health's 'Local Reform and Community Voice Grant' (LRCV) with a current annual contract value of £180,250.
- 7.2 The new contract will be funded from within the available budget.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 The Council has a statutory duty, to commission within its area an effective Local Healthwatch service to carry out the functions set out in Part 14 of the Local Government and Public Involvement in Health Act 2007 (and Part 6 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012
- 8.2 Under the Public Contracts Regulations 2015 and in accordance with the Councils Procurement and Contract Procedure Rules 2018-19, a contract notice will be published in the Official Journal of the European Union (OJEU) and on In-tend – the Council's e-procurement portal - and on the Government's Contract Finder website. In addition, due to the nature of the contract, we shall also publicise the opportunity through Sandwell Council for Voluntary Organisations.
- 8.3 The Council's Procurement and Contract Procedure Rules 2018-2019 require that at least 3 tenders for contracts of this value are received. Given the nature of the contract and the type of parties eligible to submit tenders an exemption to rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 is requested to allow a contract to be awarded if fewer than 3 tenders are received.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The Health and Social Care Act 2012 requires Local Healthwatch organisations to be subject to the public-sector duties under the Equality Act 2010.
- 9.2 The purpose of Local Healthwatch is to ensure all parts of the community can influence the shaping and scrutiny of health and social care services.
- 9.3 The initial screening for an Equality Impact Assessment has been completed and did not identify any negative equality implications for any protected characteristic or any human rights or safeguarding risks because of this re-procurement activity. The re-procurement of a Local Healthwatch Service is expected to ensure that the needs of those within the protected characteristics are appropriately met.

10. DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Any organisation bidding for, or selected to provide a Local Healthwatch Service in Sandwell will be expected to work under the legislation set out in the General Data Protection Regulations (GDPR)

11. CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 The proposals contained within this paper have been assessed and there should be no implications in relation to Crime and Disorder.
- 11.2 The Local Healthwatch service will have a role in helping to safeguard vulnerable residents in Sandwell through their access to, and experience of, health and social care services.
- 11.3 Local Healthwatch is also responsible for delivering a programme of 'Enter and View' visits involving a range of health and care settings which will further contribute to local safeguarding arrangements.
- 11.4 A full risk assessment will be completed as part of the development of the specification however the main risk identified at present will be the procurement process not securing any suitable bids for the Local Healthwatch Service.
- 11.5 Whilst this is an inherent risk associated with any procurement activity this is particularly important given the Council's Statutory duty to provide a Local Healthwatch in its area therefore appropriate mitigations will be put in place.

12. SUSTAINABILITY OF PROPOSALS

- 12.1 The biggest challenge to the sustainability of Local Healthwatch Services nationally is the continued support from Central Government through the Community Voices Grant from the Department of Health.
- 12.2 Government would need to repeal part or all of the Health and Social Care Act should it decide to withdraw the Statutory Duty on Local Authorities to provide a Local Healthwatch Service. This is not currently on the Governments agenda and should such a circumstance arise during the contract term sufficient flexibility has been built in, subject to reasonable notice, to terminate the contract if required.

13. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The purpose of a Local Healthwatch service is to promote access to, and quality of, health & social care services and contributing to tackling health inequalities.
- 13.2 As part of the procurement process we will look to bidders to demonstrate additional value for the Borough and its residents over and above the delivery of the contract. This may be for example through the development of volunteers and employment through sub-contracting parts of delivery to organisations and individuals with disabilities and mental health issues.

14. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 The incumbent provider currently occupies three offices in Walker Grange, Tipton. Should the successful tenderer wish to continue operating from Walker Grange then they shall be expected to enter into a lease agreement for the premises, on terms to be agreed by the Director of Regeneration and Planning.

15. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

It is therefore recommended that

- 1 Cabinet Approve commencement of a re-procurement of a Local Healthwatch Service in Sandwell and;
- 2 Authorise the Director-Monitoring Officer to enter into a contract with the successful tenderer for a period of 3 years with the option to extend

this by two periods of one year on terms to be agreed by the Executive Director – Adult Social Care, Health and Wellbeing and that;

- 3 If fewer than 4 tenders are received authorise an exemption to rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 to allow a contract to be awarded to the successful tenderer.
- 4 Authorises the Executive Director of Resources to offer a lease with the successful tenderer, for office accommodation at Walker Grange, Tipton on terms to be agreed by the Director of Regeneration and Planning

In accordance with 8.11 of the Procurement and Contract Procedure Rules 2018-19 If only one bid is received an exemption will be required to award the contract as per Rule 15. The report accompanying the exemption request will set out how the received bid represents value for money.

BACKGROUND PAPERS

Health and Social Care Act, 2012.
Doha guidance for the development of Healthwatch
Care Act 2014
Public Contracts Regulations 2015 - Guidance
Local Healthwatch – Reflective Audit
Local Healthwatch- regulations explained
Local Healthwatch –progress and promise
Healthwatch Sandwell Annual Report 2015/16
Making your voice count- Healthwatch England

APPENDICES:

None



David Stevens
Executive Director – Adult Social Care, Health and Wellbeing