

Commissioning and Procurement Executive Committee – 9 July 2024

Subject:	Joint re-commissioning of a Healthwatch Nottingham & Nottinghamshire Service		
Corporate Directors:	Ailsa Barr – Children and Education Services (Interim) Roz Howie – Adult Social Care and Health (Interim)		
Executive Member:	Cllr Pavlos Kotsonis – Adult Social Care and Health		
Report author and contact details:	Debbie Hemsley, Commissioning Officer debbie.hemsley@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Mark Astbury - Finance Del Sanders - Legal Nicola Harrison - Procurement Claire Labdon-West – Commissioning and Partnerships Charlotte Dodds - Commissioning and Partnerships		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision
			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £1,836,000			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number:			
Commissioner Consideration			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Executive Member: June 2024			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities			<input type="checkbox"/>
Keeping Nottingham Working			<input type="checkbox"/>
Carbon Neutral by 2028			<input type="checkbox"/>
Safer Nottingham			<input type="checkbox"/>
Child-Friendly Nottingham			<input type="checkbox"/>
Living Well in our Communities			<input checked="" type="checkbox"/>
Keeping Nottingham Moving			<input type="checkbox"/>
Improve the City Centre			<input type="checkbox"/>
Better Housing			<input type="checkbox"/>
Serving People Well			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
The purpose of this report is to seek approval for the joint commissioning between Nottingham City Council and Nottinghamshire County Council of a Healthwatch Nottingham and Nottinghamshire Service. The new service will commence 1 April 2025, with a contract term of 6 years (initial 3 years with option to extend for a further 3 years).			
Local authorities in England have a legal duty to commission a local Healthwatch organisation to deliver statutory functions. Any failings of the local authority to properly constitute and fund a local Healthwatch to carry out its statutory responsibilities may leave the local authority open to a			

Judicial Review.
Exempt information: None.
Recommendations:
1 To approve the procurement of a joint Nottingham and Nottinghamshire Healthwatch service through an open tender process for a maximum 6-year contract, with an initial 3-year period of 1 April 2025 - 31 March 2028, and a possible extension for a second 3-year period of 1 April 2028 to 31 March 2031.
2 To approve Nottingham City Council budget expenditure of £108,000 per year (an overall maximum spend of £648,00 for a 6-year contract) and note Nottinghamshire County Council's contribution of £198,000 per year (an overall spend of £1,188,000 for a 6-year contract), giving a combined spend for a 6-year contract of £1,836,000.
3 To approve Nottingham City Council entering into a collaborative agreement with Nottinghamshire County Council from 1 April 2025 for the duration of the Healthwatch Nottingham and Nottinghamshire contract, which ends on 31 March 2028 or 31 March 2031 if extended, in consultation with the Director for Legal and Governance / Head of Legal and Governance where sealing of a deed is necessary to give effect to the delegation.
4 To delegate authority to the Interim Director of Adults, Health, and Commissioning to approve the outcome of the procurement process and award the contract to the provider deemed most suitable to provide the service.
5 To Delegate Authority to the Head of Personalisation, Quality and Contracting to agree and sign the contract documentation relating to the service, in consultation with the Director for Legal and Governance / Head of Legal and Governance where sealing of a deed is necessary to give effect to the delegation.

1. Reasons for recommendations

- 1.1 The delivery of a Healthwatch function is a statutory duty for Nottingham City Council under the Health and Social Care Act 2012. Failure to provide a Healthwatch service after the expiration of the current contract would, therefore mean the Council would fail to meet its statutory duty.
- 1.2 Any failings of the local authority to properly constitute and fund a local Healthwatch to carry out its statutory responsibilities may leave the local authority open to a Judicial Review.
- 1.3 Delivery of a joint service with Nottinghamshire County Council will provide consistency of offer across the Integrated Care System (ICS) footprint and enable NCC to continue to benefit from the efficiencies which have been achieved through sharing a single service provider with Nottinghamshire County Council.

2. Background (including outcomes of consultation)

- 2.1 Healthwatch is a statutory body with responsibility for scrutinising health and social care services. Local authorities have a statutory duty through the [Health and Social Care Act 2012](#) to set up a local Healthwatch which must be structured so that it is able to carry out the statutory functions as set out in the [Amended Local Government and Public Involvement in Health Act 2007 \(section221\)](#):

- 2.2 Prior to April 2018 there was a local Healthwatch covering Nottingham City, and a separate service delivered by the same organisation covering Nottinghamshire County Council. Following a commissioning review of those separate arrangements, it was agreed to merge the two organisations into a single Healthwatch covering the County and the City – Healthwatch Nottingham and Nottinghamshire (HWNN).
- 2.3 By aligning existing contracts and having a single organisation delivering Healthwatch in the City and County, it enabled the merged service to achieve efficiencies supporting Best Value in delivery of this statutory function.
- 2.4 Contracts were aligned with the intention of commissioning a joint service at the end of the existing contract period. The joint contract will be commissioned with a service commencement date of 1st April 2025
- 2.5 It has been agreed that Nottingham City will lead the procurement of the service on behalf of both Local Authorities.

Funding

- 2.6 Healthwatch services are fully funded from the Local Reform and Community Voices (LRVC) Section 31 grant. The LRVC grant enables local authorities to meet their statutory duties relating to the Health and Social Care Act 2012, which includes ensuring that an effective local Healthwatch organisation is operating in their area, delivering the activities set out in the legislation.
- 2.7 The total allocated funding from LRVC grant to Nottingham City Council is £221,116 per annum, this is divided into the three areas: Healthwatch, POHWER advocacy service and Deprivation of Liberty Safeguards in Hospitals. All three areas face funding and capacity challenges, so there is no scope to alter current allocations without creating a negative impact on an alternative statutory function.

Consultation

- 2.8 To ensure an efficient Healthwatch service for Nottingham and Nottinghamshire, engagement by way of a survey was designed, the survey will support in gaining valuable insight in the public's current awareness, knowledge, experiences, and any potential areas of improvement for Healthwatch. The survey runs from the end-May to mid-June 2024.
- 2.9 The responses received from the public will assist in informing the final model for Healthwatch in Nottingham and Nottinghamshire.

3. Other options considered in making recommendations

- 3.1 Do nothing – allow our Healthwatch contract to terminate on the end date of 31 March 2025 without completing a procurement exercise to secure a new service. This is not recommended because the local authority has a statutory duty to provide a local Healthwatch service, this statutory duty would be unfulfilled.
- 3.2 To procure a local Healthwatch service for Nottingham City only. This option is not recommended. There is a risk City and County would secure contracts with different organisations providing Healthwatch services. This would mean that the current and future efficiencies of the joint approach would be lost, and this would not achieve Best Value and would likely see an increase in the cost of the service.

4. Consideration of Risk

- 4.1 Failure to recommission a Healthwatch function, when the current contract ceases 31 March 2025, is a risk to Nottingham City Council as delivery of this service is a statutory duty under the Health and Social Care Act 2012. This failure would result in Nottingham City Council failing to meet its statutory duty.
- 4.2 There is always the risk of destabilising current providers if they are not contracted with again and this must be given serious consideration in the procurement process. If new providers are identified, then there will be the questions of TUPE and mobilisation timeframes to ensure a seamless continuation of a Healthwatch function.
- 4.3 There is no risk in terms of funding to Nottingham City Council as the Healthwatch function is entirely funded by the Local Reform Community Voices Grant.

5. Best Value Considerations

- 5.1 Best value is being addressed through leveraging this joint approach to commissioning a joint Healthwatch service for Nottingham City and Nottinghamshire County residents. Nottingham City Council collaborating with Nottingham County Council provides the following benefits:
- delivery of a joint service with Nottinghamshire County Council will deliver consistency of offer across the Integrated Care System (ICS);
 - joint learning, collaborative working and dissemination of best practice;
 - continued benefit of economic efficiencies achieved by merging the two Healthwatch organisations.

6. Commissioner comments

- 6.1 The Commissioners are content with this report and have no specific comments to add. (24/06/2024)

7. Finance colleague comments (including implications and value for money/VAT)

- 7.1 The current Nottingham City Healthwatch Contract of £108,000 per annum is fully funded through Local Reform and Community Voices Grant (LRCVG). LRCVG allocations have been unchanged for a number of years and the current NCC allocation is £222,116 per annum.
- 7.2 This allocation is used for Healthwatch, advocacy support through POHWER and Deprivation of Liberty Safeguards in Hospitals.
- 7.3 This existing contract terminates with effect from 31st March 2025 and the current budget of £108,000 will form the NCC contribution to a new Nottingham and Nottinghamshire Healthwatch Service to be commissioned with a contract start date of 1st April 2025.

8. Legal colleague comments

8.1 The proposals in this report raise no significant legal issues and are supported.

8.2 It is understood the joint recommissioning and collaborative working between the two local authorities led by Nottingham City Council, seeks to achieve efficiencies as detailed in this report.

8.3 Nottingham City Council will lead the procurement and both Councils will contribute to the development of the Collaboration Agreement and Service Agreement arrangements. Legal services will support the service area throughout the process as and when required.

Del Sanders, Locum Solicitor, Contracts and Commercial – June 2024

9. Other relevant comments

9.1 The decision to approve the procurement of a joint Nottingham City Council and Nottinghamshire County Council Healthwatch Nottingham and Nottinghamshire service, (contract to commence on 1 April 2025), through an open and competitive procurement process, is supported by Nottingham City Council's Procurement Team who will lead the tender process in compliance with procurement legislation.

Nicola Harrison, Lead Procurement Officer – June 2024

10. Crime and Disorder Implications (If Applicable)

10.1 Not applicable.

11. Social value considerations

11.1 Engagement exercises will be undertaken to gather views from stakeholders, and the public (inc. current and potential service users) to support and inform the new joint service model and contract from April 2025.

11.2 This service will be procured with the requirement for providers to deliver additional social value. For example, recruiting local people, developing skills within the local communities and raising awareness of learning disabilities and autism with other professionals.

12. Regard to the NHS Constitution (If Applicable)

12.1 Local Authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making decisions relating to public health, functions we consider the NHS Constitution where appropriate and take into account how it can be applied in order to commission services to improve health and wellbeing.

13. Equality Impact Assessment (EIA)

13.1 An EIA is in draft format and with the E&I office for approval/publishing.

14. Data Protection Impact Assessment (DPIA)

14.1 Data Protection Impact Assessment will be completed on the approved commissioning model, and due regard will be given to any implications identified within it.

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not required because there are no carbon implications arising from this decision.

16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 None.

17. Published documents referred to in this report

17.1 Health and Social Care Act 2012

17.2 Amended Local Government and Public Involvement in Health Act 2007 (section 221)