

Establishing Local Healthwatch

Introduction and the local authority role



Establishing local Healthwatch (LHW) is a series of briefings produced by the LGA to assist local authorities and their partners in local communities and the NHS to support the commissioning, setting up and early development of local Healthwatch. The briefings are intended as a general introduction to what is involved and a brief summary of issues and questions which local authorities and others may wish to consider.

The full suite of briefings can be found at: www.local.gov.uk/health

Information in the briefings has been compiled from a document review, web-based research and information from LHW leads from around the country. It should not be regarded as a comprehensive picture or as statutory or non-statutory guidance, which is provided by the Secretary of State for Health and the Department of Health. Case examples show a range of different ways in which local authorities and partners are setting up, developing and supporting LHW – they reflect local ideas and solutions which may stimulate thinking about options, rather than being recommendations for general good practice.



Key messages

- Local Healthwatch is expected to be an authoritative and representative voice of health and social care users and the public. Local authorities have an opportunity to ensure that local Healthwatch builds on existing engagement with communities by involving senior staff and councillors in developing a flexible model suited to local circumstances.
- The setting up of local Healthwatch provides an opportunity for local authorities to review citizen involvement generally and to understand what the unique role of Healthwatch will be in it.
- Different parts of local authorities are likely to engage with local Healthwatch at different times and develop different relationships. It is important, therefore, for local authorities to understand, not only the contractual relationship with local Healthwatch, but also how relationships could extend beyond this to provide mutual support in carrying out their functions.
- Councillors and senior local authority officers need to understand how local Healthwatch differs from LINKs, in particular that LHW will be a self-governing social enterprise and company, that it will be part of the executive decision-making health and wellbeing board, that its remit includes being a voice for children and young people and that it is required to provide an advice, information and signposting service.
- The local Healthwatch advice, information and signposting advice service has considerable potential for supporting local authorities in their own duties to provide universal and targeted services and to promote equality. In particular LHW will provide a means of disseminating information about services and programmes and gathering the views of people and groups who are marginalised and whose voices are seldom heard
- In two-tier areas, it will be mutually beneficial for county councils to involve district councils in their briefings, deliberations and preparations for LHW.

Introduction

This briefing provides an introduction to the legislative context for the creation of Healthwatch England and Local Healthwatch. Local authority officers and portfolio holders with specific responsibility for commissioning local Healthwatch will be familiar with the material contained here, but they may find it helpful in making presentations to others. It gives a brief overview of Healthwatch which may be useful for:

- local authority councillors, both executive and non-executive, including those involved in health scrutiny
- officers, including chief officers of local authorities who may need to brief themselves or others on the background to Healthwatch and the role of local government
- members of health and wellbeing boards where relationships with local Healthwatch will be particularly important
- community and other organisations interested in being involved in setting up local Healthwatch organisations.
- other health and social care partners, including CCGs and providers of services.

The legislation

Healthwatch was created by Part 5 of the Health and Social Care Act 2012 (the Act) which paves the way for a national body, Healthwatch England (HWE), and a local organisation for each local council in England with social care responsibilities, local Healthwatch (LHW).

Healthwatch is intended to strengthen the collective voice of users of health and social

care services and members of the public, both nationally and locally. Locally, it will have additional powers to those currently held by Local Involvement Networks (LINks) which it will replace.

The Act set out that LHW will be established in April 2013. Until then, LINks will continue to operate as usual.

What is Healthwatch England?

The national body, Healthwatch England (HWE) is a statutory committee within the Care Quality Commission, commencing its operations in October 2012. Its chair, Anna Bradley, is a member of the board of the Care Quality Commission. HWE represents the views of users of health and social care services, other members of the public and LHW organisations. HWE will provide leadership and support to LHW and may make recommendations to local authorities. HWE may also give written notice to a local authority where HWE is of the view that patient and public involvement activities are not being properly carried on in its area. Meetings of HWE must be held in public.

The Secretary of State for Health is ultimately accountable for ensuring that HWE is performing its functions effectively.

What is local Healthwatch?

There will be one LHW for each local authority area with social services responsibilities (152 in all in England). Each LHW will be a 'body corporate' (ie a legal entity) which is a social enterprise (see briefing: Start-up and development for more detail). The aim of LHW will be to give citizens and communities a stronger voice

to influence and challenge how health and social care services are provided within their locality. LHW will also provide or signpost people to information to help them make choices about health and care services. A LHW will be an independent organisation, able to employ its own staff and involve volunteers, so that it can become an influential and effective voice of the public in relation to health and social care. Each LHW will have to keep accounts and make its annual reports available to the public.

Powers and duties of local Healthwatch

Local Healthwatch will:

- be representative of local people, representing the diversity of the community it serves and different users of services in the way in which it exercises its functions (see briefings: Engaging with the widest range of local people, and: Engaging children and young people, for more detail)
- have powers to request information from commissioners and providers of health and social care and to enter health and social care premises
- have a seat on the local statutory health and wellbeing board, a committee of the local authority, operating in “shadow” form until April 2013 when it will take on statutory functions. In this way LHW will actively participate in local decision making (see briefing: Working with health and wellbeing boards, for more detail).
- signpost people to information about local health and care services and how to access them
- provide people with information about what they can do when things go wrong or if they have a complaint – this includes either signposting people to the local complaints

advocacy service or itself providing (if commissioned by the local authority) independent advocacy to individuals who want to complain about NHS services

- be able to alert Healthwatch England, or the Care Quality Commission where appropriate, to specific care providers, health or social care matters
- have a role in the NHS’s Equality Delivery System. The NHS has a duty to comply with the Equality Act 2010, which it does through the ‘Equality Delivery System’. This means that all local health providers will have to submit reports that demonstrate how they are trying to meet the needs of the parts of the community covered by the Equality Act. Local Healthwatch will have a role in ensuring that this happens.
- have a duty to produce an annual report on their activities and finance and send a copy of their annual reports to the NHS Commissioning Board, relevant Clinical Commissioning Groups and HWE, among others specified in previous legislation.

Healthwatch and LINKs

Local Healthwatch organisations will be significantly different from LINKs, both in their remit and in their organisation.

Similarities to LINKs

LHW’s remit covers both health and social care.

LHW will have the power to enter and view premises providing publicly-funded care services as part of its role in gathering evidence (this will not be extended to children and young people – see differences over).

Differences from LINKs

Unlike LINKs which are fairly loosely federated networks of individuals and organisations, LHW organisations will each be a social enterprise, operating for the benefit of the community and a 'body corporate' – a legal entity in its own right. They will be able to employ staff, organise volunteers and contract functions to subcontractors.

In addition to adults, LHW is expected to engage with and provide a voice for children and young people who are using services or are carers or have an interest in health and care services. (The Government has indicated that it intends to extend the 'duty to respond' to reports and recommendations to activities concerning children's social care. It does not intend to extend the 'enter and view' powers which LHW will have to premises in which children's social care activities are carried on.)

There will be no 'host' organisations supporting LHW, as they will be companies, able to employ their own staff and/ or contract with others for technical, managerial and administrative support.

LHW will be required to provide an information and signposting service to help people make choices about health and social care services (eg about where they can get information about local hospitals or care homes, where they can find out about respite care or help with travel to hospital). They will take over to a certain extent some of the current functions of PCT PALS (Patient Advice and Liaison Services). PCT PALS deal with concerns raised by patients and relatives, attempting to seek quick solutions by informal means; they advise on how to make formal complaints; they discuss patients' options with them; and they collate

qualitative and quantitative information to inform service re-design and improvement.

LHW may be commissioned by the local authority to provide a complaints and advocacy service (currently provided by ICAS). If they are not themselves commissioned to provide the service, they will need to be able to signpost people to where they can make complaints and find advocates to help them.

LHW will have the support of a national body, HWE, which they can alert to concerns about care providers and health and social care matters.

Healthwatch in the local landscape – the role of local authorities

Local authorities will have specific statutory duties in relation to LHW. But they also have the opportunity to develop a much broader leadership role via health and wellbeing boards, bringing together stakeholders, ensuring that there is a common vision for patient and public engagement (including the specific contribution to be made by Healthwatch and how it relates to existing organisations and to the community). There is potential for local authorities to develop a number of different kinds of relationship with LHW. Some of these relationships will be at the level of governance, others will be operational. All have the possibility of furthering the local authority's own objectives for engaging with its citizens.

Commissioning and contract management

Local authorities are responsible for commissioning LHW (see briefing: Start-

up and development for more detail). Specifically they have a statutory duty to make contractual arrangements for a LHW organisation for the involvement of local people in the commissioning, provision and scrutiny of health and social services. These arrangements should include working arrangements with HWE. They will need to:

- provide leadership in developing interest and capacity among stakeholders, including organisations who may wish to apply or bid to set up a LHW
- specify the requirements for a LHW for their area
- put in place arrangements to deliver these requirements, for example through a tendering process or a grant-funded route
- manage the contract with their LHW once it is set up
- ensure effective delivery in line with the legislation.

The legislation enables local authorities to authorise LHW organisations to contract with other organisations or individuals to assist them in their activities. Local authorities also have a number of duties in relation to monitoring and reporting on the work of LHW. Local authorities will fund LHW, using funding they currently receive for LINKs with an additional non-ring-fenced allocation.

The Act permits the Secretary of State to transfer property, rights, liabilities and staff from LINKs to local Healthwatch, to assist local authorities to transfer arrangements from LINKs to local Healthwatch.

A scheme may require a local authority to pay compensation to a transferring organisation/LINK.

Local authorities must ensure that LHW are acting effectively and providing value for money and must publish an annual report on these two objectives. They must manage potential conflicts of interest between LHW being funded by local authorities and being able to challenge them effectively (for example in relation to their commissioning and/or provision of social care). The Department of Health has recently completed a consultation exercise on the exact form of regulations about these and related matters and regulations are expected to be laid before Parliament in the autumn.

In working collaboratively on developing LHW, local authorities are exercising their community leadership role and the power to promote wellbeing (created by the Local Government Act 2000). The process is also building expertise in issues such as developing social enterprises and the legal forms of companies with social objectives. While some areas already have considerable experience of such activity, through, for examples setting up companies under the local authority, this is not universal.

Such expertise will be beneficial for meeting the requirements of The Public Services (Social Value) Act 2012, probably due to be implemented in January 2013. This requires certain public authorities, including local authorities and the NHS, to consider how, in procuring services, they might improve the economic, social and environmental wellbeing of their areas. The Act stems from a private member's bill originally intended to create a more level playing field for the social enterprise sector in bidding for public sector contracts.

NHS Complaints Advocacy Service

The Act transfers from the Secretary of State to local authorities the duty to make arrangements for the provision of independent advocacy services for complaints relating to health services. Local authorities may contract with LHW for the provision of independent advocacy services, but need not do so. For example, they could commission a local voluntary sector organisation to provide a complaints and advocacy service on health matters. Local authorities will continue to have responsibility for managing complaints relating to adult social care and to commission advocacy services to support service users, including those who may wish to complain.

Partnership

Although they do have a formal, legal relationship in commissioning LHW and managing the contract, there are also potentially many other fruitful and mutually beneficial relationships between local authorities and LHW. The DH encourages local authorities to work in partnership with their local communities eg the existing LINK, voluntary groups, and other community organisations, when designing their approach to commissioning local Healthwatch and to seek to ensure some continuity during the transition to LHW. This is likely to result in an organisation which is built on existing strengths, is welcomed by existing organisations and residents, is fit for purpose and is suited to the needs of local communities.

For local authorities, their role in setting up local Healthwatch provides an opportunity to review citizen involvement generally and to understand what the unique role of Healthwatch will be in the matrix that currently exists and what their vision is for the future of engagement with citizens.

The engagement workstream of Lambeth's health and wellbeing board has devised a Pathway of Citizen Involvement, which involves four levels of community participation. At its heart is a belief that by involving citizens in the development of their own solutions we empower communities, deliver sustainable interventions and improve health and wellbeing. The four levels are:

- **individual:** involving individuals in the management of their own health and wellbeing
- **collective:** involving the whole community in different ways eg patient cohorts, special interest groups, age groups, BME populations or the wider public
- **representative:** involving organisations and individuals that are enabled to act as representative of others (eg third sector organisations, LINK/Healthwatch)
- **co-operative:** involving health and wellbeing agencies from all sectors in joint engagement activities

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In their day-to-day work, local authorities, the NHS and LHW will also be partners, with the mutual objective of ensuring that services are responsive to the needs of local communities. For example, a positive and productive partnership could see LHW acting, in part, as the 'eyes and ears' of the local authority, with deep roots in the community, genuinely representative of

people's views. They would have ready access, be respected and listened to by the health and wellbeing board, by councillors and senior officers who would see them as allies in improving services. Of course, there are potential conflicts of interest and differences of opinion, as there are bound to be when anyone has the job of 'speaking truth to power', but an acknowledgement of shared purpose could help in finding solutions. In short, local Healthwatch could be a key component in a 'whole system' approach to citizen engagement.

Bradford has worked hard to secure political and strategic stakeholder buy-in. The host organisation has briefed all relevant scrutiny committees on the current state of the LINK and progress towards Healthwatch. Setting up a pathfinder for Healthwatch was signed off by the Health and Wellbeing Partnership Board. The shadow health and wellbeing board (which includes the Leader of the council, the chief executive and the directors of adult and children's services) have also been briefed. LINK host staff and the chair regularly attend these meetings. The chief executive of Keighley and Ilkley Voluntary and Community Action (KIVCA) also attends these as the representative of Bradford's Voluntary Sector Forum.

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Service delivery

If a good working relationship is established from the start, LHW could play a part in supporting the local authority's own service delivery, particularly in relation to signposting people to sources of help, advice and support beyond the NHS. At a time of financial constraint, this could be very helpful in helping local authorities meet their duties to provide universal information services, for example to older people who are funding their own care. (The need to provide universal information and advice is a requirement for Adult Social Care Services. LAC(DH) (2009) states that all councils are expected to have:

“universal, joined-up information and advice available for all individuals and carers, including those who self assess and fund, which enables people to access information from all strategic partners.”)

Local Healthwatch could also support other council services, for example by providing information and signposting in relation to housing and the Supporting People programme to help people live independently, the disabled facilities grant for home adaptations and home energy saving.

Appropriate information and signposting is also very important in taking a systematic approach to prevention and early intervention which are high priorities for both local authorities and the NHS. The draft Care and Support Bill would give local authorities a statutory duty to incorporate preventative practice and early intervention into care commissioning and planning. The kind of advice and support currently provided by PALS when extended through LHW to

Kent's vision is that a strong, independent Healthwatch should help the whole system commission and deliver integrated health and social care services more effectively, and promote better outcomes.

As part of some support and development work it carried out on local readiness for Healthwatch in Kent, the Centre for Public Scrutiny proposed that the potential for a sub-regional Healthwatch Observatory should be explored. It would co-ordinate information and data on patient and service user choice to support the local information and signposting role for local Healthwatch organisations. It would provide a locus for expert skills in the collation, analysis and presentation of patient and service user data to support LHW staff. It would also apply these skills to analysing and giving insight to data and information produced by commissioners and providers. By sharing the resource between a number of local Healthwatch organisations across a sub-region it would be possible to pool expertise in an efficient and informed way and recruit the appropriately skilled staff for this specialised role.

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social care and other local authority services could not only support prevention and early intervention strategies, and provide individual support and a more personalised service, but also help build up a picture of people's experiences and concerns about different services, contributing to their improvement. Through their membership of health and wellbeing boards, LHW organisations will be able to feed back at a strategic level, the qualitative and quantitative information they obtain via their engagement and information work.

With its duty to be representative of the diversity of local communities, LHW should also be able to help the local authority to carry out its own equality duties and to reach out to individuals and groups whose voices are seldom heard. Thinking about these issues in advance could help in understanding what capacities your local Healthwatch will need and what skills are needed for its governance and operation.

In short, local Healthwatch has the potential to be an effective partner which will enhance commissioners' ability to commission and co-produce new and better services.

Support and development

Local authorities will have an ongoing role in monitoring the work of LHW and in holding it to account for the fulfillment of the contract. However, given the potential for LHW to help local authorities to meet their own objectives for citizen engagement, many local authorities are recognising that providing proactive support to LHW in its early development and beyond is likely to be a worthwhile investment. For example, some local authorities and LINKs have already invested in training local people as lay and peer assessors of services, as well as helping them to understand the remit and purpose of 'enter and view' powers. Local authorities will be in a position to take forward and build on this work, in partnership with LHW, thereby helping to support a cadre of skilled community volunteers.

Questions to consider

1. Is your council's vision for local Healthwatch part of a wider vision of citizen engagement with the local authority and its partners?
2. Does everyone who needs to know in your local authority understand the type of organisation that LHW will be and the functions it will have? Does this go beyond those who will be involved in the commissioning of LHW to extend to staff and councillors in different roles who will engage with LHW during its operation?
3. What arrangements have been made to brief councillors and the relevant officers about LHW? Have you held or planned briefing sessions for:
 - leaders and portfolio holders for health, public health, wellbeing, communities, older people and children and young people?
 - non-executive councillors as community leaders who will have relationships with LHW as the voice of their residents?
 - councillors involved in scrutiny of health and social care?
 - chief and senior officers who will be involved in the new health arrangements and partnerships, including health and wellbeing boards and clinical commissioning groups?
 - health and social care commissioners in the local authority (including public health) who need to understand the views of and engage with service users, carers and the public?
4. Has your shadow health and wellbeing board had an opportunity to discuss your vision and plans for local Healthwatch?
5. Have you provided forums in which contract commissioning staff, health and social care commissioners and community engagement staff can develop a common understanding of the kind of organisation they are helping to shape through the commissioning process?
6. In thinking about the future role of local Healthwatch in your local context, have you mapped or are you planning to map the currently available range of information and advice services?
7. If in a two-tier area, to what extent have district councils been involved in developing the vision and making preparations for LHW? What plans are there for their ongoing involvement with local Healthwatch?

Resources

Department of Health, 'Local Healthwatch: the policy explained' (outlines the vision, role and purpose of Healthwatch):
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_126325.pdf

LGA, Regional Voices, NHS, 'Building Successful Healthwatch organisations':
http://www.local.gov.uk/c/document_library/get_file?uuid=c96a438b-dbb5-4cfa-8669-8c42a999cbdd&groupId=10171

Department of Health, 'Summary report: Issues relating to local Healthwatch regulations':
<https://www.wp.dh.gov.uk/publications/files/2012/07/Summary-Report-Issues-relating-to-local-Healthwatch-regulations.pdf>



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