

HOSC/30/11

Committee Health Overview and Scrutiny

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[Reproduced below is the paper presented to the Community and Older People Policy and Scrutiny Committee on 8 September 2011. A supplementary oral update on the discussion and feedback from that meeting will be given to the Essex HOSC by Duncan Wood]

ESSEX HEALTHWATCH MEMBERSHIP

1. Introduction

1.1 The Health & Social Care Bill will create Local Healthwatch Organisations (LHWO's) as consumer champions for health and social care services.

1.2 The Secretary of State for Health has recently designated Essex as a Pathfinder area for Local Healthwatch. Working together, the County Council and the Essex & Southend LINK have an opportunity to build on their successful Pathfinder bid, influence national policy and design an effective Healthwatch for Essex.

1.3 The Bill says that Local Healthwatch will be a body corporate. A key issue left open in the bid was how exactly Essex Healthwatch members will be appointed. The LHWO will have an important role, significant powers and an annual budget of up to £1m. It is vital that its members should come from all parts of the Essex community, have the training and skills to do a good job and be accountable.

1.4 To help the Cabinet Member for Adult Health & Community Wellbeing reach a decision, the Community & Older People Policy & Scrutiny Committee and the Health Overview & Scrutiny Committee have been asked to consider evidence and make a recommendation about the best membership model for the Essex LHWO and associated issues around recruitment and training.

1.5 The C & OP Scrutiny Committee will consider this report, take oral evidence from witnesses and make a recommendation that will then be discussed with the Health Overview & Scrutiny Committee before being passed on to the Cabinet Member.

1.6 A copy of the Essex Healthwatch Pathfinder bid can be seen here:

<http://www.essex.gov.uk/Business-Partners/Partners/Adult-Social-Care-providers/Documents/Bid%20submission.pdf>

2. HealthWatch's Role

2.1 Local HealthWatch Organisations (LHWOs) will be the public's champion in health and social care issues. This role is currently performed by the Essex and Southend Local Involvement Network (LiNK), which has a duty to:

- encourage and support people to make a difference to health and social care services;
- enable people to review the quality of health and social care services;
- gather people's views about their experience of local care services;
- make the public's views known to people responsible for planning and delivering care services;
- produce reports and make recommendations about how local care services should be improved.

2.2 Local Healthwatch will take on these LiNK functions but will also have new statutory roles to:

- provide advice and information about access to local care services;
- make recommendations to a new national body, Healthwatch England, to advise the Care Quality Commission about investigations to conduct;
- work with Healthwatch England to improve the standard of care nationally, as well as locally.

2.3 The Bill also allows for Local Healthwatch to provide advocacy services but the local authority will have the power to make contracts for these services to be provided by other organizations instead.

2.4 The Government has clearly stated that Local Healthwatch should be accountable to the County Council. The Bill (in Clause 187) says that there will be a duty on the Council to secure that Healthwatch operates effectively and represents value for money. However, it is also important to ensure that Local Healthwatch can freely comment on council services.

3. Membership of HealthWatch

3.1 Like the LINK, LHWO will be a member led organisation; but rather than having a separate 'host organisation', it will be a body corporate with its own support staff to help it carry out its role. Membership of the LINK is currently open to anyone who wishes to take part.

3.2 The Bill says LHWO members will be appointed but it does not specify how exactly membership of LHWOs will be determined and by whom. The Bill provides for Ministers to make regulations on the following matters:

- the number of members;
- the conditions for eligibility;
- the appointment of members, including who has the power of appointment;
- the terms of appointment;
- circumstances in which someone ceases to be a member or can be suspended; and
- remuneration for members.

There is as yet no indication from the Government as to what exactly these Ministerial Regulations are likely to say.

3.3 The Essex Pathfinder bid had this to say about LHWO membership (on pages 4 and 5):

A. The Pathfinder LHWO will consist of a number of members, chosen to be representative of Essex demographically and in terms of the diversity of the voluntary and community sector and service user groups. This might entail some kind of quota approach, although this could never be exact. However, the key reason for taking this approach is to secure a membership that will want to drive outreach work because of its own diversity.

B. We will investigate two options for the size of the LHWO. The first is one in which it will be a small compact body, with associates who volunteer to support its work but who would not normally have any voting rights. The second option is to have a much larger body, like a foundation hospital trust, which would then elect its own board. On this option, there would be less need for formal associate status. The size of membership may need to reflect any joint arrangement if agreed with Southend and Thurrock.

C. In choosing between these two options, we will be guided by two key factors:

(a) the need to ensure that the membership is not only broadly representative in itself, but also drives outreach work among the diverse communities of Essex (ie, ensure that the LHWO also engages people – in a variety of ways - who are not interested in becoming members or attending meetings); and

(b) the need to ensure that the members of the LHWO can be held to account for how effectively they have used taxpayers' money to deliver the outcomes for the LHWO agreed with the local authority.

D. Membership applications (under either option) will be invited from existing LINK members but also from a wide range of other community and service user groups. ECC and the LINK would run a high profile recruitment campaign.

E. Appointment criteria will include an assessment of skills and experience against a role profile for LHWO members. These would be published in advance of the recruitment process so that potential candidates can see the basis on which selections will be made. The appointment process should also pay attention to whether applicants would face conflicts of interest and whether these might be chronic.

F. Appointments will be made by panels consisting of county and district councillors and representatives of service users. The panels should be constituted in ways that demonstrate independence from the executive side of the County Council, eg, the majority of members being from scrutiny roles or service users.

G. We envisage that the membership of the Pathfinder LHWO will consist of adults. However, in view of the role that LHWO's will have in influencing services for children, we are keen to ensure that the Pathfinder is able to draw on the experiences of children and young people. To this end, we will involve the Young Essex Assembly and other youth councils in shaping the work of the Pathfinder and will draw on other methods of engaging children and their families.

4. This Committee's role

4.1 The Committee has kindly agreed to consider issues around the membership model for the Essex LHWO and make a recommendation to the responsible Cabinet Member.

4.2 It is important to decide a preference between the two models in the bid so that the local partners can both influence national policy on this question and make progress as soon as possible on recruiting members. The bid expresses a desire to convert the LINK into an operating Pathfinder Healthwatch by January 2012, with the members of that Pathfinder becoming the members of the actual Healthwatch in October 2012. The County Council can use its existing powers under the Local Government & Public Involvement in Health Act 2007 to create in effect a 'shadow' Healthwatch within the LINK. It would be unwise to launch any kind of appointment process until we have an assurance that it will meet the requirements of Ministerial Regulations, but we do need to clarify the Essex position to lobby effectively about those Regulations.

4.3 The Committee might like to bear the following criteria in mind in reaching a judgement on membership models:

Representative

- For Local HealthWatch Organisations to act as the public champion in health and social care issues they will need to be representative of the local community. This is specified in the current legislation and reinforced by the government's response to the NHS Futures Forum Report.

Effective

- LHWOs will need to deliver outcomes, as a member led organisation this will depend partly on members steering the organisation.

Accountable

- LHWO will be funded by public money and tasked with acting in the public interest, so will need to be accountable

Credible

- The LHWO has a duty to gather feedback about the standards of local care services. This means that it will need to retain some independence from care services if it is to be credible.

Viable

- Any plans for LHWO need to be feasible and must work in practice not just sound good in theory.

5. Officers' analysis of the membership models

Model 1 – The 'Trust' Model

- ❖ LHWO is publicized to encourage members to join with membership being open to anyone. A central board is then democratically elected from this membership. The board governs LHWO and is responsible for ensuring it fulfills its role. Membership of the LHWO is open to all, but the central board takes the majority of decisions. In essence the Trust Model is the same as the present LINK membership, whereby core members are elected from the overall membership.

Representative

- The experience of LINKs over the past year suggests that this model is unlikely to result in a representative membership. In principle the present LINK model is democratic and accessible to all. However in practice LINK has not been able to deliver the desired range of public engagement or been representative of the community¹.

Effective

- HealthWatch will be steered by the small group of members who make up the board or core membership and will therefore need these members to have the right skills, experience and approach to make HealthWatch effective. The responsibility for

¹ E & S LINK audit and National LINKs Annual Report available at http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124320.pdf

determining whether core members have the ability to lead HealthWatch, in Model 1 will lie with the wider membership who elects them.

- This model runs the risk of reducing the opportunity to be a HealthWatch member to a popularity contest. This may particularly detrimental to the effectiveness of HealthWatch if the initial publicity for the organization fails to attract a wide general membership.

Accountable

- Model 1 makes the LHWO accountable to the public because the board is elected by a membership which is open to all, what is meant by the 'public' will depend on how wide the actual membership is that elects the board.
- It is not clear in Model 1 how board members will be held to account by the wider membership.
- It is also essential that the local authority has a way to hold the LHWO to account and it is unclear how this might work in practice. Would it be board members, staff or the entire membership who are held to account and how would any failings be addressed?

Credible

- Model 1 should ensure that the LHWO is credible because board members will be elected from membership open to all, making it independent.
- However individual members will inevitably have their own interests, which will need to be declared if this independence is to be credible. This raises questions about when and how this should be recorded. For example, should it be made known before members stand for election and how will this affect that process.

Viable

- A robust and effective publicity campaign in order to attract new members for LHWO will need to precede elections for board members. This is likely to be quite lengthy if it is to be successful which may be difficult given the relatively short time in which to develop and pilot the pathfinder.
- The Health and Social Care Bill as it stands suggests that members will be appointed and to opt for a model that ignores that is a risk. It may mean it that a radical overhaul of the pathfinder LHWO is necessary when the final version of the Health and Social Care Bill is passed as it contradicts the legal requirements of HealthWatch.

Model 2 – Appointed Members Model

- ❖ The core members of LHWO are appointed on the basis of ability to effectively represent the public, wider associate membership is extended to all who are interested but without full voting rights.

Representative

- Like Model 1 this Model 1 would extend general membership to everyone but the core decision-taking membership would be appointed. In order to ensure this group is as representative as possible, one of the criteria the appointment panel would be obliged to consider is the diversity of the group, eg, ensuring that all 18+ age groups are properly represented, that the membership is balanced by gender, etc
- In order to ensure that LHWO members reflect the interests of the public and service users, the appointment panel will include elected non-executive council members and an existing service user representative.

Effective

- This model enables LHWO to be effective by appointing core members on the basis of their diversity, skills, knowledge, experience and approach.
- Members who wished to be appointed would be expected to match their skills to the role profile of a core member of the LHWO as part of the appointment process.
- Members would also be aware of what is expected of them as HealthWatch members

Accountable

- Model 2 ensures accountability because members will have a clear role and terms of appointment, which if they do not adhere to then the Local Authority can take action to remove members and recruit a replacement.
- The LHWO will be required to agree a Service Level Agreement with the council for its functions and will be accountable if it fails to operate effectively or deliver value for money within the terms of this Agreement
- LHWO members will not just be accountable to the local authority but also to the general public through public meetings, at which associate members could scrutinize the effectiveness of the core members

Credible

- Core members that have been appointed by a panel which reflects the interests of the public should mean that LHWO is a credible public representative.
- Core members will be able to determine the work plan for LHWO. This freedom to decide how exactly LHWO fulfils its role will give the organization the independence it needs from the local authority to work effectively whilst maintaining accountability.

Viable

- Although not yet clear, it does seem likely that the final version of the Health and Social Care Bill will specify the requirement to appoint members and the conditions of the appointment. It is advisable to opt for a model that will be closer to eventual Ministerial Regulations so that a smooth transition can be made from the pathfinder LHWO.
- Model 2 should create a membership that meets the criteria outlined in existing guidance from the Department of Health in a shorter time frame than Model 1. This would allow more time for piloting the pathfinder.