

AGENDA ITEM: 9

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Meeting	Cabinet Resources Committee
Date	4 April 2012
Subject	Local Involvement Network hosting services- extension and waiver of Contract Procedure Rules
Report of	Cabinet Member for Public Health Cabinet Member for Adults
Summary	The current contract for the Local Involvement Network host has had to be extended by a further year to 31 March 2013 following the announcement by the Government of a further delay in the creation of its successor body, Health Watch. Cabinet Resources Committee are requested to note the action taken by the Assistant Chief Executive to waive Contract Procedure rules to allow this contract to be extended prior to its expiry.

Officer Contributors	Assistant Chief Executive Strategic Policy Adviser
Status (public or exempt)	Public
Wards Affected	None
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	None
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1. RECOMMENDATIONS

- 1.1 That the Committee note the action of the Assistant Chief Executive under Delegated Powers to extend the Local Involvement Network hosting services contract for a period of one year to 31 March 2013, in accordance with Contract Procedure Rules 5.6 and 5.7.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 22 July 2008 (decision item 14 award of contract for Local Involvement Network host)
- 2.2 Delegated Powers report No 1168, LINK hosting services- acceptance of tender, 1 Oct 2010
- 2.3 Delegated Powers report No 1292, Local Involvement Network hosting services- extension of contract, 4 April 2011
- 2.4 Delegated Powers report No 1564, Local Involvement Network hosting services- extension of contract, 7 March 2012

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The statutory basis for LINKS is contained in the Local Government and Involvement in Health Act 2007, which includes a requirement for a local authority to procure a host organisation to support the LINK.
- 3.2 The work of the LINK in assessing services from a user perspective and making recommendations for better practice should assist in providing better services with less money. It is an example of a new relationship with citizens, involving them in service design and delivery.
- 3.3 Under the Health and Social Care Bill currently going through parliament, LINKS will evolve into a new organisation, local HealthWatch, which will continue to involve local people in having their say on local services, but take on broader duties in terms of patient liaison, information and signposting and potentially NHS complaints advocacy.
- 3.4 The LINK is represented on Barnet's shadow Health and Well Being Board and plays a key role in ensuring that the Joint Strategic Needs Assessment, the Health and Well Being Strategy and consequent commissioning plans are informed by the needs of patients and users. Local HealthWatch will be statutory partners on Health and Well Being Boards from 2013.

4. RISK MANAGEMENT ISSUES

- 4.1 There is a risk that, in the transfer to a new organisation, the existing expertise and commitment of volunteers will be lost without an organised transition from a fully functioning LINK. This will be mitigated through using the regular performance monitoring meetings with the host to review how they are supporting this transition, and through writing into the new specification a

requirement for tenderers to demonstrate how they will make best use of existing expertise and commitment.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The requirement for the LINK host to recruit and involve the full range of Barnet's diverse communities was written into the specification, and therefore forms a part of contract monitoring.
- 5.2 10% of the marks in the first stage evaluation of companies that expressed an interest in the original contract were allocated according to equalities considerations

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Between 2008 and 2011, funding for the contract costs (including contract monitoring) came through a formula based grant from the Department of Health that was incorporated within the Area Based Grant.
- 6.2 Following the Spending Review, allocations to Local Authorities from 11/12 onwards were set out in a letter from the Secretary of State for Communities and Local Government on 20 October 2010. Various Department of Health grants, including that relating to LINK were rolled into formula grant.
- 6.3 For 2011/12, £100,000 was held in contingency to cover the responsibility to continue this service through to 31 March 2012 as future requirements were uncertain at that time. It is now clear that these responsibilities will continue and a figure of £100,000 is being held in the base budget from 2012/13 onwards to support this.
- 6.4 Both the original procurement of a host, and the reprocurement that led to the appointment of the current host, were undertaken in accordance with European Union tendering procedures for a Part B service. The current contract provides for up to two extensions for a period of up to 24 months. This report relates to a second extension.
- 6.5 A series of performance targets are agreed between the local authority and the host, to ensure that the contract is providing value for money and helping to deliver the health and social care objectives of the Council and its partners. These are reviewed together with the host's work plan at regular monitoring meetings.
- 6.6 As the Local authority is not a provider of the service, there are no direct staffing, ICT or property implications.

7. LEGAL ISSUES

- 7.1 Section 221 of the Local Government and Public Health Act 2007 imposes a duty upon each local authority to make contractual arrangements for the purpose of ensuring that there are means by which the activities specified for the council's area can be carried on within its area. The specified activities are: (a) promoting, and supporting, the involvement of people in the commissioning, provision and scrutiny of local care services; (b) enabling

people to monitor for the purposes of their consideration of matters mentioned in subsection (3), and to review for those purposes, the commissioning and provision of local care services; (c) obtaining the views of people about their needs for, and their experiences of, local care services; and (d) making— (i) views such as are mentioned in paragraph (c) known, and (ii) reports and recommendations, about how local care services could or ought to be improved, to persons responsible for commissioning, providing, managing or scrutinising local care services.

- 7.2 The Health and Social Care Bill extends the role of local authorities in the health system by creating health and wellbeing boards and giving them responsibility for public health. The aim is to strengthen democratic legitimacy and ensure that commissioning is joined up across the NHS, social care and public health. The interface between clinical commissioning consortia and local authorities will be critical in ensuring that services meet the full range of local population health needs.
- 7.3 The contract was procured in accordance with European Union tendering procedures for a Part B service.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution, Part 3 - Responsibility for Functions - section 6, Powers delegated to officers provides that Chief Officers can take decisions without consultation with the Cabinet Member concerned where it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy.
- 8.2 Contract Procedure Rules, sections 5.5 and 5.6 sets out authorisation and acceptance thresholds for contracts and contracts extensions.
- 8.3 Directors/Heads of Service may take decisions on urgent or emergency matters as set out in the Leader's Scheme of Delegation providing they report afterwards to the relevant decision making body setting out the reasons for the urgency. Such decisions include waiver of the Contract Procedure Rules where this is justified on the basis of urgency, as set out in Contract Procedure Rules 5.7 and 5.8 together.
- 8.4 As it does not affect more than one ward, nor exceed £500,000, this matter does not fall within the definition of a 'key decision'.

9. BACKGROUND INFORMATION

- 9.1 Local Involvement Networks (LINKs) for Health and Social Care are a statutory requirement under the Local Government and Public Health Act 2007. They are networks of local people who are able to influence local health and care services, including having limited powers of inspection.
- 9.2 The legislation sets out a tripartite relationship between local authorities, who received a notional sum from the Department of Health through Area Based Grant to tender for a host organisation. The host recruits to and establishes a local LINK, and administers and supports their work. The Area Based Grant

allocations covered the three year period through to 31 March 2011. They were not ring fenced for this purpose.

- 9.3 The contract to host the Barnet LINK was awarded to Community Investors Development Agency Ltd (CIDA) by Cabinet Resources Committee on 22 July 2008. This contract was terminated on 28 July 2010 and, after a competitive procurement in accordance with European Union procedures, the contract was awarded to Community Barnet for the remainder of the contract (1 October 2010- 31 March 2011).
- 9.4 In August 2010 the Government's Health White Paper proposed the creation of a new organisation, Health Watch, which would succeed LINKs, and continue their responsibilities as well as take on new ones such as complaints advocacy. This was subsequently enshrined in the Health and Social Care Bill.
- 9.5 The original intention was that HealthWatch would succeed LINKs from April 2012, and in October 2010, the Department of Health issued guidance that local authorities should consider extending existing LINKs host contracts through to that date to minimise disruption and maintain continuity; allow the development of local HealthWatch organisations if applicable; and reduce costs incurred in tendering.
- 9.6 In view of this, and to allow them to continue their work in building the membership and capacity of the LINK to function effectively, Community Barnet's contract was extended to run through to 31 March 2012, at the sum of £95,000.
- 9.7 Subsequently the Health and Social Care Bill has been considerably delayed in its passage through Parliament. The provision for HealthWatch to supersede LINKs was first delayed until October 2012, then in January 2012 the Department of Health announced that the transfer was to be further delayed to April 2013. This is to allow for HealthWatch England to be established in October 2012, and to place Healthwatch in step with other relevant provisions in the Bill such as those relating to Health and Well-Being Boards.
- 9.8 As a result it was necessary to award a further one year contract extension to Community Barnet in the sum of £95,000 to 31 March 2013.
- 9.9 This is within the terms of the contract which provide for up to two extensions for a period not exceeding 24 months. It does however fall outside the scope of Contract Procedure rules 5.6.1.2 and 5.6.1.3 as the original contract has already been extended once, and the value of the extension is worth more than half of the cost of the existing contract without the extension. A waiver of Contract Procedure rules was therefore required.
- 9.10 In view of the exceptional circumstances of the late notice of the delay as outlined in 8.7 above, and to ensure continuity of service after 31 March 2012, the Assistant Chief Executive invoked, through Delegated Powers Report No. 1564, a waiver of the above Contract Procedure rules. Under Contract Procedure Rule 5.7 any such waiver must be reported to Cabinet Resources Committee, and CRC are therefore requested to note the action taken.

10. LIST OF BACKGROUND PAPERS

- 10.1 Contracting for support to Local Involvement Networks in 2011-2012: supporting the possible transition to Local HealthWatch- Department of Health circular Gateway ref: 1445, 27 October 2010
- 10.2 Local Healthwatch, letter from Director General for Social Care, Local Government and Care Partnerships, Department of Health, 3 January 2012

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