

**Extension of contractual arrangements for Local Healthwatch for Walsall under Reg 72 to allow for full design, tendering and implementation.**

**Portfolio:** Councillor Pedley – Adult Social Care

**Related portfolios:** Councillor Flint – Wellbeing, Leisure and Healthy Spaces

**Service:** Adult Social Care

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

**1. Aim**

For the Council to be assured that it will continue to have compliant contractual arrangements in place, which are fit for purpose to allow for full design, tendering and implementation (TUPE is likely to apply).

**2. Summary**

- 2.1. To allow for the preparation of a robust competitive tendering exercise, there is a need to extend the contractual arrangements with Engaging Communities Solutions CIC for Healthwatch which is a statutory function which the local authority has to fund. Healthwatch was established under the Health and Social Care Act 2012 to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.
- 2.2. The Contract with Engaging Communities Solutions CIC expires on 31 May 2024.
- 2.3. There is a need for the service to continue beyond the expiry date to allow for a comprehensive review of the existing service provision and for full design, tendering and implementation.
- 2.4. Adult Social Care have identified the need for extension, due to capacity within the team and the need to include areas that will support CQC readiness. There has not been sufficient time available to complete a compliant tender process.

### **3. Recommendations**

- 3.1. That Cabinet approves the extension of the existing contract with Engaging Communities Solutions CIC for a period of 10 months from 1<sup>st</sup> June 2024 to March 31, 2025, at a value of £158,708.
- 3.2. That Cabinet delegate authority to the Executive Director for Adult Social Care, Public Health and the Hub in consultation with the Portfolio Holder for Adult Social Care, to subsequently authorise the sealing of deeds and/or signing of contracts and any other related documents for the provision of such services as well as any variations to the contractual arrangements or other related documents should this be required throughout the duration of this contract.

### **4. Report detail - know**

#### ***Context***

##### Healthwatch

- 4.1 Healthwatch is a statutory function which the local authority has to fund. Healthwatch was established under the Health and Social Care Act 2012 to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.

##### Local Healthwatch for Walsall

- 4.2 Local Healthwatch for Walsall is the independent champion for people who use health and social care services. Healthwatch exists to make sure that those running services, and the government, put people at the heart of care.
- 4.3 Local Healthwatch for Walsall is unique in that its main purpose is to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.
- 4.4 There are 2 main elements to Local Healthwatch for Walsall:

Public and Patient Involvement: To actively engage communities in a dialogue about their health and social care needs to ensure that services and commissioners act upon feedback and can demonstrate that they have done so.

Information, Signposting & Advice: A service to provide, or signpost to, information about local health and care services including, how to access them and make informed choices.

- 4.5 The Healthwatch contract was originally awarded following the completion of a compliant procurement process, by approval of the Executive Director of Adult Social Care on 16 April 2019 to Engaging Communities Solutions CIC.
- 4.6 The original procurement resulted in the formation of a contract for three years with 2 options for the Council to extend the contract by up two further years

(3+1+1). Both options have been used by the Council in order to extend the contract term up to and including 31 May 2024.

- 4.7 The Executive Director of Adult Social Care Public Health and Hub approved the extension of contract for the provision of Local Healthwatch for Walsall, to the Engaging Communities Solutions CIC, via the Council's contractual options to extend, for a further period of 2 years from 01 June 2022 to 31 May 2024.
- 4.8 Adult Social Care are also working on procurement documents required to undertake a compliant procurement process to tender for the service during this extension request.

#### ***Council Plan priorities***

- 4.9 Ensuring appropriate contractual arrangements for Local Healthwatch for Walsall are in place will help achieve the corporate priority of encouraging residents to lead active, fulfilling and independent lives to maintain or improve their health and wellbeing. It will do so by ensuring people can access support in their community to keep safe, well and independent at home and are supported to maintain or improve their health, wellbeing and quality of life

#### ***Risk management***

- 4.10 The contract extension will ensure that the Council is compliant with its Contract Rules and able to respond compliantly to demands to meet statutory duties until the new Healthwatch contract is in place.

#### ***Financial implications***

- 4.11 The 10-month extension from 1 June 2024 to 31 March 2025 at a value of £158,708. This can be funded from within the existing budget.

#### ***Legal implications***

- 4.12 Adult Social Care and Procurement will liaise with legal services to ensure that the extension of the current contractual arrangements is carried out compliantly under regulation 72 of the Public Contracts Regulations and using a methodology which will be robust and contractually binding for both parties to the existing contract. See also point 4.16 below.

#### ***Procurement Implications/Social Value***

- 4.13 All procurement activity will need to be undertaken in compliance with Public Contract Regulations 2015 (the Regulations) and the Council's Contract Rules. Procurement and legal services will coordinate to ensure that there is a consistency of advice and approach.
- 4.14 As the contract extension options which were originally available in the contract have now been used up by the Council, in order to extend this contract any

further, the Council and the provider may agree to modify the contract by agreement, but only in accordance with the available options under Regulation 72 of the Regulations. Advice has been sought as to whether or not this modification falls under the range of modifications which are permitted by Regulation 72. The proposed 10-month term represents below 20% of the original total 5-year term created by the contract when it was originally let on 1 June 2019. In these circumstances the proposed term is not considered to be a 'substantial' amendment to the existing contract as defined under by the various scenarios detailed in regulation 72(8). Therefore, the proposed extension of the term is considered to be a lawful modification under regulation 72(1)(e) of the Regulations, which permits modifications which (regardless of their value) are not substantial within regulation 72(8) of the Regulations. On the above basis Legal Services has advised Procurement that the proposed contract term modification should be compliant under Regulation 72 of the Regulations, and the Council's Contract Rules and are unlikely to expose the Council to any significant risk of legal challenge (particularly given that the further extension will run in tandem with the carrying out of the new procurement process) to replace the existing contract with a new long term contract.

- 4.15 Procurement will ensure that all notices which need to be published in order to carry out in line with the Regulations and guidance published by the Cabinet Office.
- 4.16 Adult Social Care will work with Engaging Community Solutions CIC to agree Social Value benefits during the 10-month extension.

***Property implications***

- 4.17 No Council property assets are implicated by the proposals in the report.

***Health and wellbeing implications***

- 4.18 Continuing to commission this service will enable the Council to promote independence, choice and control for adults and their families and ensure service user voice is heard in the services it commissions. It will:
- Obtain the views of people about their needs and experience of local health and social care services. Local Healthwatch for Walsall make these views known to those involved in the commissioning and scrutiny of care services.
  - Make reports and make recommendations about how those services could or should be improved.
  - Promote and support the involvement of people in the monitoring, commissioning and provision of local health and social care services.
  - Provide information and advice to the public about accessing health and social care services and the options available to them.

- 4.19 It also links and contributes to the Council's corporate priorities which are referred to in section 4.9 of this report.

### ***Reducing Inequalities***

- 4.20 The implications for reducing inequalities have been taken into account and assessed as set out below:
- i. Consideration has been given to the Council's responsibility under the Equality Act 2010; and
  - ii. The Council's duty to meet people's eligible needs will remain the same following the award of the new contracts for the Services.

- 4.21 An Equality Impact Assessment (EqIA) is not required as this is a statutory service.


### ***Staffing implications***

- 4.22 TUPE is likely when this contract is re-procured via a compliant procurement apply, and the proposed 10-month extension would allow for all TUPE implications to be considered.

### ***Climate Impact***

- 4.23 There is no climate impact implicated by the proposals in the report.

### ***Consultation***

- 4.24 Engaging Communities Solutions CIC has been consulted about extending the contract and has confirmed that it would be willing to accept a 10-month extension to the existing service within the same budget. 

## **5 Decide**

Cabinet is requested to consider the content of this report and to agree the recommendation as outlined in section 3.

## **6 Respond**

Subject to Cabinet approval of the recommendation, Adult Social Care will work with corporate colleagues to:

(a) Progress the award of:

- The extension of the Local Healthwatch for Walsall Contract from 1 June 2024 to 31 March 2025.
- Continue to work on procurement documents required for the Council to run a compliant procurement process to tender for the service.

## 7 Review

Once the Healthwatch contract has been extended, the Local Healthwatch for Walsall contract will be reviewed in line with our contract management and individual support plan review process.

### Appendices

#### Background papers

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Signed



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5 April 2024



Councillor Keir Pedley  
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Adult Social Care

5 April 2024

