

Local HealthWatch Briefing Paper

Written for the Somerset LINK, September 2011

This paper summarises what we know so far about Local HealthWatch. The picture is not entirely clear, as ideas are developing in a very changeable situation, and much is open to debate! However, this paper attempts to explain some of our guesses about what Local HealthWatch is intended to look like. It also asks some of the questions that still remain unanswered. Most of the information in this paper is based on information in the Health & Social Care bill that is currently going through parliament – and our best guesses!

“ **Local HealthWatch organisations will be the local consumer champion across health and social care.** * ”

** according to the (not-quite-ready) Health & Social Care Bill, Schedule 16A Section 220A (1)*

The things we do: What will stay the same?

Local HealthWatch will retain all involvement and scrutiny functions of the LINK, including:

- ✓ promoting involvement
- ✓ obtaining views
- ✓ monitoring health and care services
- ✓ making reports and recommendations
- ✓ carrying out Enter & View visits.

The things we do: What will be new or different?

- ✓ **Local HealthWatch will provide information to support patient choice** (responding to questions about information which the PCT PALS teams currently do)
- ✓ **There will be a HealthWatch representative on Local Health & Wellbeing boards:** These boards will be made up of local councillors, council officers and GP commissioners and will be responsible for the Joint Strategic Needs Assessment (JSNA) and also for developing a Health and Wellbeing Strategy based on the evidence in the JSNA.
- ✓ **(From 2013) Local HealthWatch will point members of the public in the direction of NHS complaints advocacy:** Currently, this service (the Independent Complaints Advisory Service or ICAS) is commissioned (bought) at a national level but it will be the responsibility of local authorities (councils) from April 2013. Local authorities will be required to contract organisations to carry out this work, and Local HealthWatch can either bid to run the service, or if not, must signpost people in the direction of whoever is running the service.
- ✓ **Local HealthWatch will 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.

When will this happen?

LINKs will come to an end when Local HealthWatch contracts begin in October 2012.

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What sort of organisation will Local HealthWatch be?

Local HealthWatch will not be a 'network' like the LINK. It will be a "body corporate".

This is a legal term that means something that has "perpetual succession and a legal personality distinct from that of its members". This would include companies with limited or unlimited liability, companies limited by guarantee, charter companies and bodies created by statute.

So at some point, Local HealthWatch may need to be set up as its own charity, company or similar. As a 'body', that means that Local HealthWatch:

- ✓ ... will be an organisation in its own right, and no longer 'just' a network overseen by volunteer groups.
- ✓ ... may appoint its own staff.
- ✓ ... will have to produce its own annual accounts.
- ✓ ... will have standards provided by a national HealthWatch organisation, Healthwatch England, against which Local HealthWatches can be measured.
- ✓ ... will be subject to the Equality Act 2010. (It isn't yet clear what the implications of this will mean, but perhaps it will mean that Local HealthWatch will have to demonstrate how it is meeting its obligations under the Equality Act, by engaging with all the different sections of the community.)

It appears that Local HealthWatch will be led by local members or volunteers, as are LINKs, and that paid staff will be there to support volunteers, as is the current situation with LINKs.

Local HealthWatch 'Members':

The Bill talks about Local HealthWatch 'members'. It isn't clear exactly how HealthWatch will define 'members', but it is possible that the Department of Health considers that Local HealthWatches will be run and 'owned' by a board of members, similar to charity trustees or health board non-executive directors. Some parts of the bill suggest that Local HealthWatch members might be paid. Perhaps this suggests that Local HealthWatches will have a paid board, similar to some health boards at the moment. However, it also says that Local HealthWatch members must be "representative of local communities". Some people have raised concerns that this might be difficult to achieve, as volunteers from hard-to-reach sections of the community may not always put themselves forward for these sorts of roles.



Unanswered questions....

- What is a HealthWatch 'member'? What will happen to current LINK volunteers?**
- Will Local HealthWatch have a paid board? Who will select the members of the board?**
- Will the board be responsible for governance or will it be expected to be a project board?**
- Will volunteers be expected to do the signposting work of Local HealthWatch?**
- Will volunteers be responsible for the HR and legal work of running an organisation?**
- How will Local HealthWatch be expected to meet the requirements of the Equality Act 2010?**
- How will Local HealthWatch's 'members' be representative of the whole community?**
- How will volunteers be supported to be public representatives on Health & Wellbeing Boards?**
- How will a HealthWatch Representative truly represent the public?**

What role will local authorities (Councils) have?

- ✓ Local Authorities (Councils) must make arrangements that a Local HealthWatch is established and carries out specified activities. This will be established through a contract with the local authority.
- ✓ Local authorities (councils) will fund Local HealthWatch in the same way that they fund the LINKs: i.e. they will put together specifications for Local HealthWatch and put this out for organisations to bid for. They will then performance-manage the contracts, and can terminate them if they think the performance of the Local HealthWatch is unsatisfactory.
- ✓ The Health Bill says that Local Authorities may possibly make HealthWatch arrangements 'directly with the Local HealthWatch'. There is much debate about what this means, as it seems to be a sort of chicken-and-egg situation: how can local authorities make arrangements with a body that doesn't yet exist? In theory, what could happen is that groups of local volunteers might get together and form an organisation (such as a social enterprise or charity) and then bid for the Local HealthWatch contract. However, as such groups would have no experience of tendering (which is a complicated legal process) then it is hard to see how this could work. There would also be a chance that

they would not get the HealthWatch contract, but that this would be passed to another organisation, which could put all concerned in a rather awkward position.

- ✓ Where local LINKs volunteers have been able to organise themselves into groups, there is a suggestion that Local Authorities might be able to 'turn them into HealthWatch' by using 'grant in aid' – this means providing the funding as a grant, rather than putting HealthWatch out as a contract for organisations to bid for.
- ✓ It seems probably that Local Authorities will have to use some sort of 'host organisation' in order to set up Local HealthWatch, because in most areas volunteers will not want to form a company to bid for the contract themselves. Another model suggested has been that the Local Authority will work with several organisations, each of which could carry out part of the HealthWatch work.
- ✓ Existing LINK staff will possibly be made redundant when the LINK contract expires. However, if the new roles are similar enough, then the staff may be protected under TUPE regulations. TUPE is an acronym for the Transfer of Undertakings (Protection of Employment) Regulations. It is meant to protect employees when the company they work for is taken over by another company. It might mean that existing LINK staff would be transferred to the new HealthWatch organisation. But until more is known about the roles in the new organisation, it is not clear what will happen to existing LINK staff.

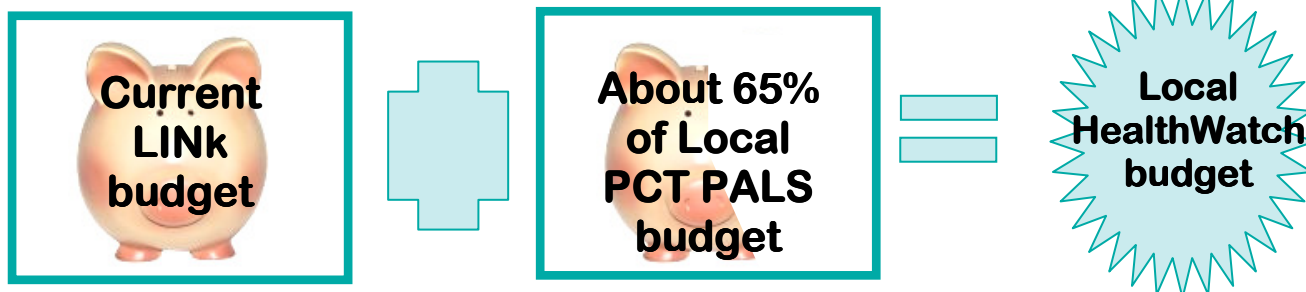


Unanswered questions....

- How will Local HealthWatch be truly independent when it is funded by the Local Authority?
- How will the Local Authority decide what Local HealthWatch will look like?
- How will the Local Authority ensure that it collects the views of all stakeholders, while making sure that no one group of stakeholders excludes itself from being a potential bidder for a Local HealthWatch contract?
- What will happen to current LINK staff?

How will Local HealthWatch be funded?

Local HealthWatch will be funded from money from central government. The amount for each Local Authority will be different, as it is worked out depending on numbers of people in the local authority area and the demographics of people in the area. At the moment, the money for Local HealthWatch is being (very roughly) calculated like this:



There are other small pots of money that are also being thrown into the Local HealthWatch piggy-bank, for example, a bit of extra money for the extra work that government is expecting will need to be done once people are aware of Local HealthWatch and start using it more. There is also the possible pot of money that will come to Local HealthWatch in 2013 if it is successful in bidding for the complaints advocacy (currently Independent Complaints Advisory Service or ICAS) work that Local Authorities will have to commission.

However, all of this Local HealthWatch money is not ring-fenced. That means that the Local Authority does not HAVE to spend the money on Local HealthWatch. The money will go into the Local Authority's giant pot, from which it has to buy many services. The amount that it spends on HealthWatch will vary from place to place.



Unanswered questions....

- How much will each Local Authority decide to put towards Local HealthWatch?
- What will happen if a Local Authority decides to spend most of the Local HealthWatch money on something else? Will there be any sanctions for Local Authorities who do not spend enough money on Local HealthWatch?
- When the Independent Complaints Advisory Service is commissioned, who will support the public to complain about social services, as well as health services?

What is HealthWatch England?

- ✓ HealthWatch England will represent HealthWatch at a national level. It will be a committee of the Care Quality Commission (CQC).
- ✓ HealthWatch England will put together standards for Local HealthWatch to be measured against, and provide guidance for Local HealthWatches.
- ✓ Local HealthWatches will be able to pass concerns to HealthWatch England, who will work with the CQC to look into concerns raised from local information.

What is PALS and what does it have to do with Local HealthWatch?

PALS stands for 'Patient Advice and Liaison Service'. PALS staff work in hospitals and health trusts, and help patients get answers to any questions that they might have about NHS services. They also help resolve problems for patients who want problems resolved rather than making a formal complaint. The NHS PALS site at www.pals.nhs.uk summarises PALS work as:

1. Providing you with information about the NHS and help you with any other health-related enquiry
2. Helping resolve concerns or problems when you are using the NHS
3. Providing information about the NHS complaints procedure and how to get independent help if you decide you may want to make a complaint
4. Providing you with information and help introduce you to agencies and support groups outside the NHS
5. Informing you about how you can get more involved in your own healthcare and the NHS locally
6. Improving the NHS by listening to your concerns, suggestions and experiences and ensuring that people who design and manage services are aware of the issues you raise
7. Providing an early warning system for NHS Trusts and monitoring bodies by identifying problems or gaps in services and reporting them.

Some of this work can be described as 'signposting' (perhaps numbers 1, 3, 4 and 5). It is this signposting, or information-giving role, that will move over from PCT PALS teams to Local HealthWatch. Primary Care Trust (PCT) staff are being slowly reduced as new Clinical Commissioning Groups take over their commissioning responsibilities. Therefore some of their staff team roles are moving into other organisations. This is what is proposed will happen to PCT PALS roles and Local HealthWatch.



Unanswered questions....

What will happen to PALS staff? Should they be transferred under TUPE to Local HealthWatch? If so, how will Local HealthWatch cover their NHS conditions? If they are made redundant at any point after the HealthWatch contract has been awarded, who will have to pay their NHS redundancy? Will it be the Local Authority or Local HealthWatch itself?

What percentage of PALS work is really signposting? The Department of Health is assuming 65% although previous studies suggest this is more like 13%.

What will happen to the informal problem-resolution that PALS teams do?

Want to read some more ... ?

This paper represents our 'best guesses' about the shape of Local HealthWatch. We've put this together based on information from the following sources, which you can read for yourself.

- The Health & Social Care Bill 2010-11
- The Combined Impact Assessments for the Health & Social Care Bill
- The Government response to the NHS Future Forum report: briefing notes on amendments to the Health and Social Care Bill
- The HealthWatch online community
- Strengthening People's Voices in Health and Adult Social Care (HealthWatch Local Authority narrative)
- CQC HealthWatch pages online
- LINKs to HealthWatch Transition Plan
- HealthWatch Programme Board minutes and papers
- Consultation on Allocation Options for distribution of additional funding to local authorities for: Local HealthWatch, NHS Complaints Advocacy, PCT Deprivation of Liberty Safeguards.
- Equality Delivery System NHS briefing papers.

