

**Report for ACTION by the Health & Wellbeing Board**

Item Number: 9



<b>Contains Confidential or Exempt Information</b>	<b>NO</b>
<b>Title</b>	Local Healthwatch (LHW)
<b>Responsible Officer(s)</b>	Christabel Shawcross
<b>Contact officer, job title and phone number</b>	John Scaife, Joint Commissioning Manager 01628 683614
<b>Member reporting</b>	Cllr Simon Dudley
<b>For Consideration By</b>	Shadow Health & Wellbeing Board
<b>Date to be Considered</b>	18 May 2012
<b>Implementation Date if Not Called In</b>	April 2013
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Healthwatch / LINKs

**Report Summary**

1. This report deals with the development and implementation of a local Healthwatch (LHW) organisation.

The Health and Social Care Act 2012, makes provisions for the establishment of Healthwatch. Healthwatch England (HWE) is being established as a statutory committee of the Care Quality Commission to act as the national consumer champion for people, families and carers who use health and social care services. The HWE committee will be established in October 2012, and LHW will be introduced in April 2013. It recommends the business model and form of legal entity of LHW

2. These recommendations are being made following discussion in the Healthwatch Project group and following advice from Shared Legal Services
3. If adopted, the key financial implications for the Council are initial development costs of Healthwatch and ongoing support costs. These are funded by a specific grant from the Department of Health.
4. An additional point to note is that LHW will in effect replace the current Local Involvement Network (LINK)

<b>If recommendations are adopted, how will residents benefit?</b>	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. Healthwatch will gather views and understand the experiences of patients and the public who use local publicly-funded health and social care services. These views will be taken into consideration by statutory agencies in local decision making about Health and Social Care Services. Information gathered will be used as evidence to support recommendations to Healthwatch England and/or the CQC and other relevant bodies.	April 2013
2. Healthwatch will have the right to challenge providers and commissioners of services, including local clinical commissioning groups, health and wellbeing boards and, through Healthwatch England and the CQC, the national regulators and the Secretary of State. It must be independent.	April 2013
3. Healthwatch will promote the involvement of local residents in the commissioning and provision of local health and care services.	April 2013
4. Healthwatch will recommend investigation or special review of services via Healthwatch England or directly to the Care Quality Commission (CQC)	April 2013
5. Healthwatch will provide advice and information about access to services and support for making informed choices	April 2013
7. Local authorities will continue to commission Social Care Complaints Advocacy. Local Authorities will take a decision on how they wish to commission NHS Complaints Advocacy and this may or may not be commissioned from Local Healthwatch. However, Local Healthwatch will support any complaints function	April 2013

## 1. Details of Recommendations

### RECOMMENDATION:

To note the recommended LHW Business Model

To note the recommended form of legal entity for LHW, and following direction from the Department of Health, to support the establishment by the Council of LHW as a body corporate with statutory responsibilities.

To note that the Director of Adult and Community Services will seek Cabinet approval in September 2012 to issue an Invitation To Tender for the professional support service to LHW, to be effective from 1st April 2013.

## 2. Reason for Recommendation(s) and Options Considered

Option	Comments
Establish LHW in Windsor and Maidenhead by 1 <sup>st</sup> April 2013.	The Council has a statutory responsibility to establish a LHW on behalf of residents using health and social care services. LHW must be a corporate body independent of public service organisations. <b>recommended option.</b>
Do not establish a LHW in Windsor and Maidenhead.	This option would result in the Royal Borough not meeting its obligations under the Health and

	Social Act 2012 to make arrangements for local public and patient participation. This option is not recommended.
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### 3. Key Implications

The development of LHW leading up to 1<sup>st</sup> April 2013 and the continuing functioning of the Windsor and Maidenhead LINK until 31<sup>st</sup> March 2013, are funded by a specific allocation within the Revenue Support Grant this year.

The project is being resourced via by a full time project manager on a temporary contract. Administrative support is being provided by Windsor and Maidenhead Voluntary Action (WMVA).

### 4. Financial Details

- a) **There is no budgetary impact in 2012-13 as this project is funded from a specific DH grant of £10,000. Funding beyond 31<sup>st</sup> March 2013 has not yet been declared.**

Example	Year1 ( <i>state year</i> )	Year2 ( <i>state year</i> )	Year3 ( <i>state year</i> )
	Capital £000	Capital £000	Capital £000
<b>Addition</b>	N/A		
<b>Reduction</b>			

Example	Year1 ( <i>state year</i> )	Year2 ( <i>state year</i> )	Year3 ( <i>state year</i> )
	* Revenue £000	Revenue £000	Revenue £000
<b>Addition</b>	N/A		
<b>Reduction</b>			

### b) Financial Background (optional)

### 5. Legal Implications – Health & Social Care Act

LHW must be established as a body corporate independent of the Council. Latest guidance indicates that this should be in the form of a Social Enterprise. Officers are working with the Shared Legal Service on the precise form of this body and a recommendation will be made to Cabinet in September 2012.

### 6. Value For Money

The development project has no value for money implications. The external expenditure leading up to the establishment of LHW is trivial.

### 7. Sustainability Impact Appraisal

*None*

## 8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Residents do not volunteer to serve on LHW	LHW unable to form a quorum or discharge its functions	Early engagement with the LINK followed by proselytising LHW via the borough's partnership boards and other community-based groups	Shadow LHW to be established in September 2012 giving advance notice of any shortfall in membership and thus time to recover.
Funding for LHW beyond March 2013 is not sufficient to enable LHW to fulfil its statutory duties.	LHW ineffective and membership becomes disaffected.	Risk not controllable but mitigation potentially available by prioritising LHW within 2013-14 budget allocations.	Review position once 2013-14 LHW funding declared.

## 9. Links to Strategic Objectives

Our Strategic Objectives are:

### Residents First

- **Support Children and Young People**
- **Encourage Healthy People and Lifestyles**
- Improve the Environment, Economy and Transport
- Work for safer and stronger communities

### Value for Money

- Deliver Economic Services
- Improve the use of technology
- Increase non-Council Tax Revenue
- Invest in the future

### Delivering Together

- Enhanced Customer Services
- **Deliver Effective Services**
- **Strengthen Partnerships**

### Equipping Ourselves for the Future

- Equipping Our Workforce
- Developing Our systems and Structures
- Changing Our Culture

## 10. Equalities, Human Rights and Community Cohesion

A part 1 EQIA has been completed. No negative impacts on target groups were identified.

## 11. Staffing/Workforce and Accommodation implications:

The LHW project has a full time project manager on a temporary contract until 31<sup>st</sup> March 2013.

Additional administrative support and LHW/LINK office facilities are provided by WMVA in Windsor town centre under a one-year agreement with the Council.

## 12. Property and Assets

None

## 13. Any other implications:

LHW will have the right to nominate a representative on the Windsor and Maidenhead Health and Wellbeing Board.

This has been anticipated through nomination by the LHW project group of a member to sit on the Borough's Shadow Health and Wellbeing Board which was formed on 15<sup>th</sup> July 2011.

## 14. Consultation

The Windsor and Maidenhead LINK Steering Group has been extensively consulted and has nominated members to serve on the LHW project group to support the development and ensure a smooth transition from LINK to LHW.

## 15. Timetable for Implementation

	<b>Aims</b>	<b>Outcomes</b>
October 2012	Shadow Healthwatch board identified & operational	Shadow Healthwatch initiated
October 2012	Corporate identity in established for April 2013 Relevant office set up, IT and staffing put in place	Initial steps in place for the development of the Healthwatch corporate identity to be established
April 2013	Legal identity established. Support staff in place. Management board operational. Healthwatch service functioning.	Healthwatch established
April – October 2013		Governance and policy documents developed / agreed
October 2013	Election process held to identify / confirm management board	Healthwatch management board identified following a public voting exercise

## 16. Appendices

Appendix A – Healthwatch Business Model Options

Appendix B – Legal Recommendation

## 17. Background Information

Department of Health Gateway document 17286 "Local Healthwatch – a strong voice for people"

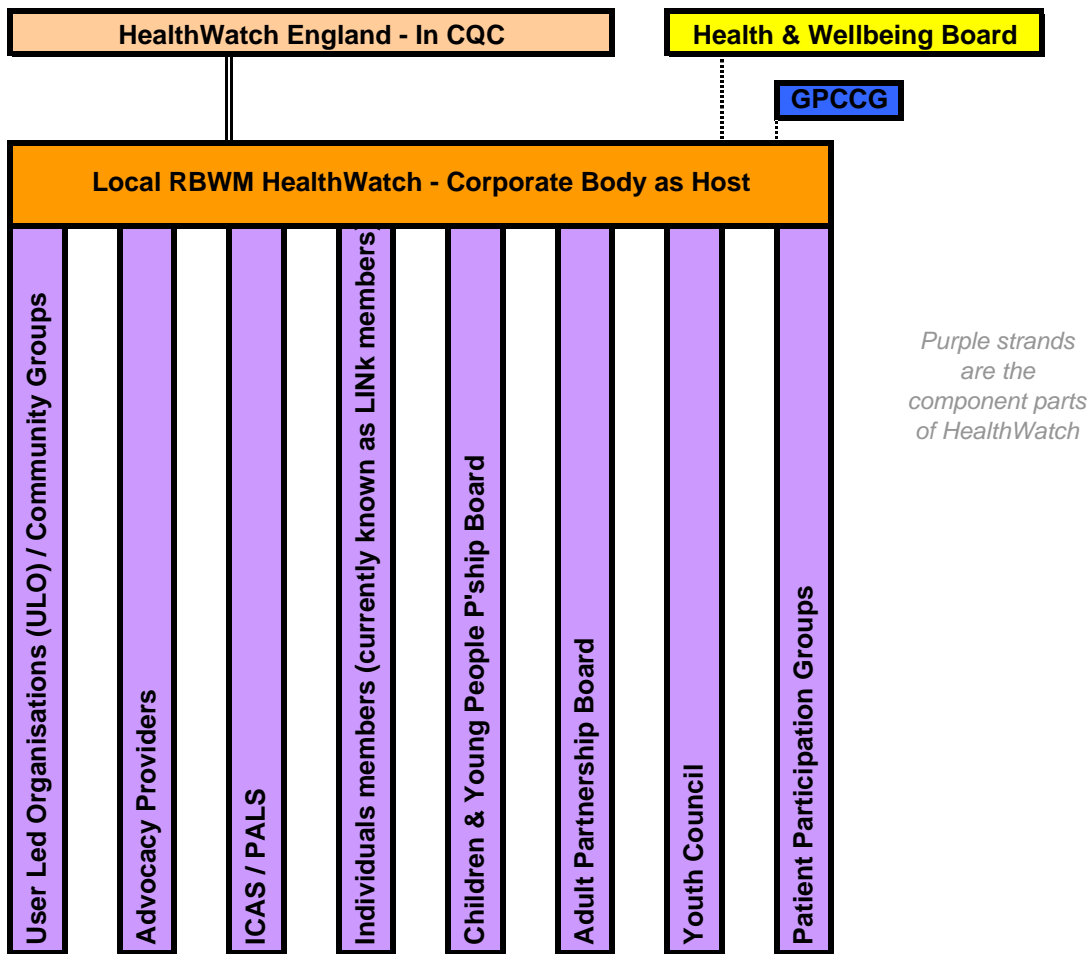
Health & Social Care Act 2012

### Report History

<b>Decision type:</b>	<b>Urgency item?</b>
<i>EITHER:</i> Key decision <i>OR</i> Non-key decision <i>OR</i> For information	No  For information

Full name of report author	Job title	Full contact no:
John Scaife	Joint Commissioning Manager	01628 683614

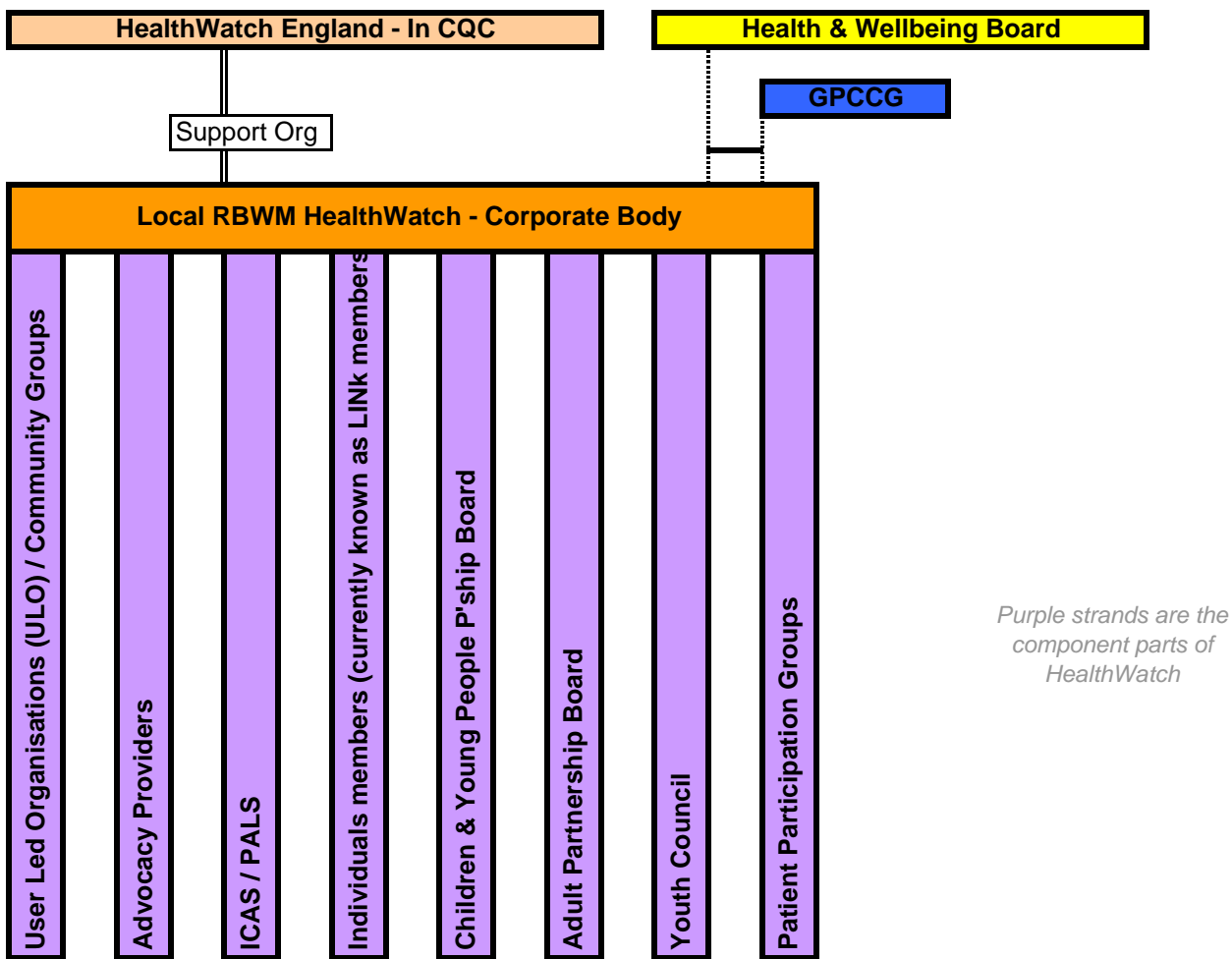
CORPORATE MODEL 1



**NOTES**

- 1 Unclear about overall responsibilities for HR, legal status, finances / budgets
- 2 Unrealistic to expect autonomous organisations to surrender their corporate identity
- 3 Assumes a blanket-model of operation for all component parts

CORPORATE MODEL 2

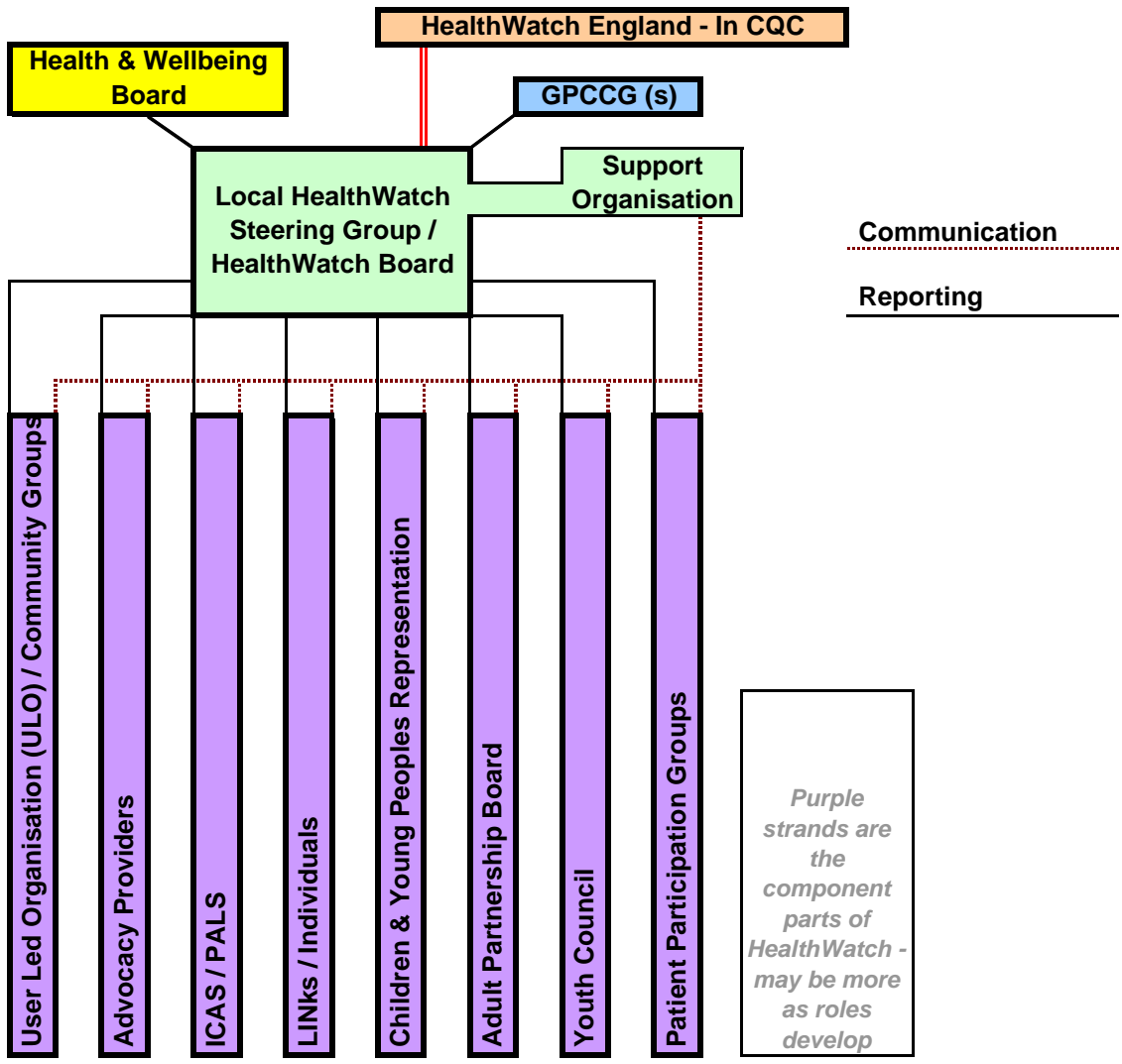


**Notes:**

- 1 Host will enable HealthWatch to develop and over a period of time will step back to allow the new organisation to stand alone. Host costs therefor limited to an agreed time
- 2 Ongoing costs incurred for HealthWatch: premises, staff, HR, training etc
- 3 Unrealistic to expect autonomous organisations to surrender their corporate identity
- 4 Assumes a blanket-model of operation for all component parts



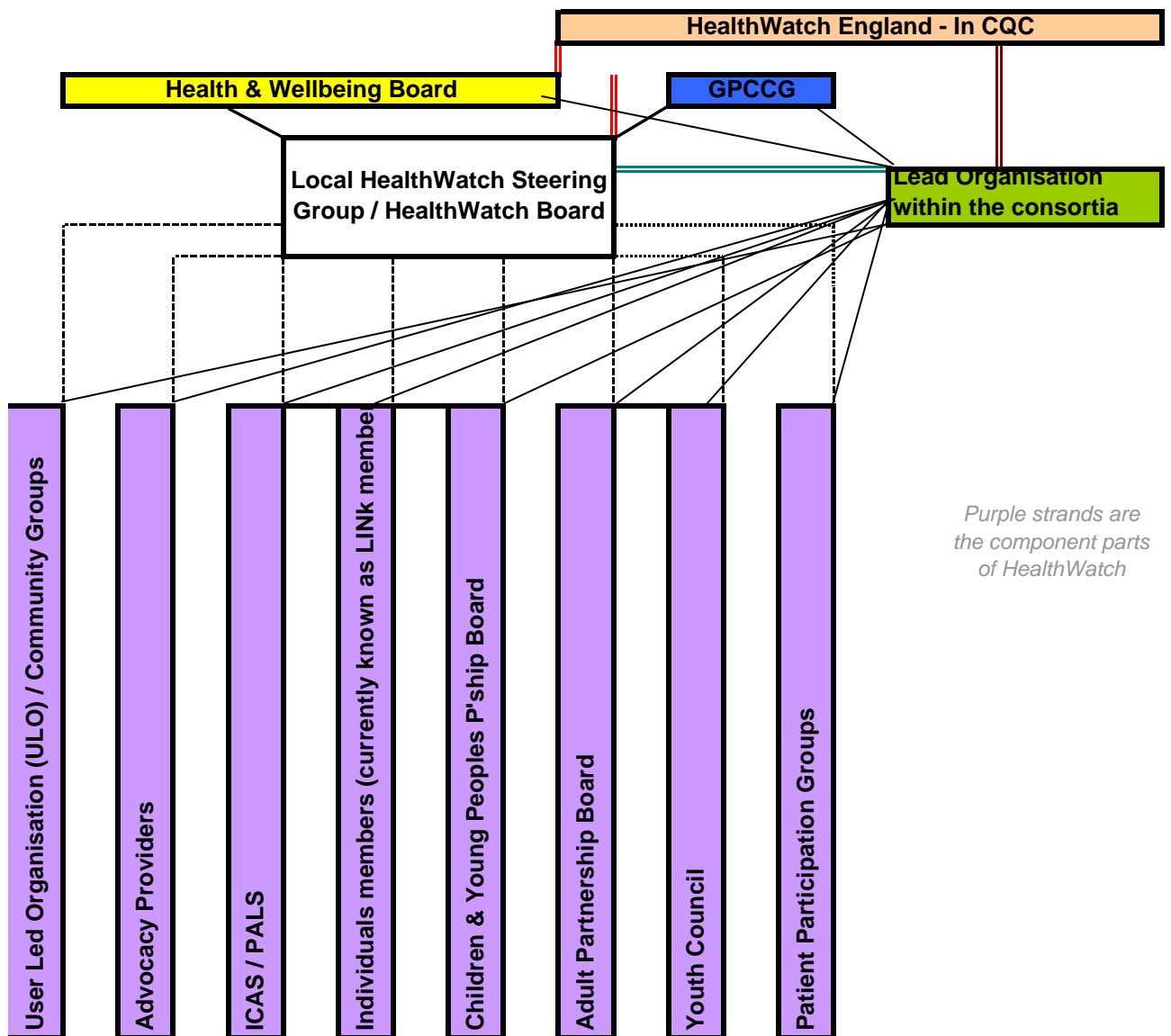
# Network model 1 (RECOMMENDED)



## NOTES

- 1 - All organisations that are component parts retain their own autonomy and responsibilities for HR, legal status, budget setting, health & safety, training, etc.
- 2 - The support organisation networks the component parts of HealthWatch, e.g. information sharing, updates etc
- 3 - Support Organisation completes the admin role of accreditation and monitoring organisations that are within the component parts to be in HealthWatch and have LHW branding, can help those who have not met standards and work with them to improve
- 4 - Support organisation provides an admin function for the Steering Group, including meetings, data collection, communications, report writing etc
- 5 - This model supports the devolution of power in the Localism Bill
- 6 - LHW Steering Group / Management Board could potentially become the Body Corporate
- 7 - Model has a collaborative approach, signed up to an agreed shared agenda / purpose

## Network Model 2



### NOTES

- 1 All organisations that are component parts retain their own autonomy and responsibilities for HR, legal status, budget setting, health & safety, training...
- 2 Lead organisation networks the component parts of HealthWatch, eg information sharing, updates
- 3 The lead organisation accredits and monitors providers of the component parts to be in HealthWatch and have HW branding can help those who have not met standard and work with them to improve
- 4 The lead organisation supports the steering group (made up of elected members of each component) with admin, meetings etc and support things such as writing of annual reports, data collection, etc
- 5 Supports the devolution of power in the Localism Bill
- 6
- 7 Local HealthWatch Steering Group / Management Board could potentially become the Body Corporate Collaborative approach, sign up to a shared agenda / purpose

Option 1

Single contract with a supplier established specifically to deliver HeathWatch (Corporate model 1)

Option 2

Single contract with supplier, Local Health watch as an extension of remit (Corporate model 2)

Option 3

Single contract with a supplier (host) to provide infrastructure and support a consortia arrangement (Network model 1)

Option 4

Single Contract with a consortia arrangement with organisations to provide specialist services (requires a lead organisation within the consortia) Network Model 2

Option 5

Single Contract with supplier that sub contracts to deliver specialist services

Option 6

Separate contract with single suppliers required to work together in partnership to deliver a

## **Appendix B – The Recommendation for the Structure of Healthwatch as a Legal Entity (from Shared Legal Services)**

### **Health & Social Care Act 2012**

The Health & Social care Act 2012 requires that Local Healthwatch will be a body corporate. It will be a “social enterprise” that is incorporated by registration under an Act of Parliament such as the Companies Act.

### **Legal Advice provided by Azhar Ghose recommends:**

‘A legal structure known as a company limited by guarantee that can obtain charitable status as this would provide tax exemptions and business rate relief.’

### **For Information - A Definition of a “Corporate Body”**

A corporate body can be described as a **group of people acting together** which has a **separate legal identity from** the individual members’ identity.

The significance of being a corporate body is that the body has **legal personality** separate from its members, and is therefore **able to contract, employ staff, acquire rights and incur liabilities in its own right**. Otherwise, the body would be unincorporated and it would be its members who would enter contracts, incur liabilities etc. Unincorporated associations do not have legal personality, may not sue or be sued in their own name nor (unless their purposes are charitable) may property be held for their purposes otherwise than by virtue of a contract between the members for the time being.

Put another way, a corporate body is a **body of persons that has been incorporated (i.e. has its own legal personality)** – this may be incorporation under the Companies Act (in the case of a company), under a Royal Charter, or, **as in the case of statutory bodies, under a specific Act of Parliament**.

Many corporate bodies are **expressly established by individual statutes** – these are collectively referred to as statutory bodies: that is, a body established by statute to carry out a specific purpose and whose duties and powers are both conferred (and limited) by that statute.