

## **Local Healthwatch:**

A strong voice for people

- the policy explained

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### Introduction

- 1. This paper sets out the government's vision for local Healthwatch and its functions, responsibilities, roles and relationships in the post-NHS reform landscape (subject to the passage of the Health and Social Care Bill currently before Parliament).
- 2. Aimed at all those with an interest in local Healthwatch organisations across the NHS and social care, from local authorities to LINks and from emerging health and wellbeing boards and the voluntary and community sectors, this document also describes the key policy ambitions for Healthwatch. It goes on to set out the main differences from the current system of patient and public involvement in health and social care, including the role of the local authority, and explores some of the issues that will need to be addressed in local planning.
- 3. The NHS reforms proposed in the White Paper Equity and excellence: Liberating the NHS¹ set out the government's vision for the future of the NHS and its proposals for Healthwatch. It said that the NHS would "be genuinely centred on patients and carers" and "give citizens a greater say in how the NHS is run". One of the main ways the government intends to do this is by creating a new consumer champion Healthwatch.
- 4. Healthwatch will strengthen the collective voice of local people across both health and social care, influencing Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based through its seat on every statutory health and wellbeing board. Establishing successful Healthwatch organisations, rooted in communities and responsive to their needs, will mean working differently in many cases. It will also mean working much more collaboratively so that local Healthwatch organisations can operate as part of existing local community networks ensuring they can have maximum reach across the diversity of the local community and drawing on information, advice and local knowledge that already exists.

<sup>1</sup> Equity and excellence: Liberating the NHS, Crown Copyright 2010 ISBN 9780101788120

- 5. The proposals also give local voice influence at the national level through the creation of Healthwatch England. Healthwatch England will be a statutory committee of the Care Quality Commission (CQC). Healthwatch England will be key to enabling the collective views and experiences of people who use services to influence national policy, advice and guidance and as a statutory committee of CQC will help strengthen links between patient/public views and regulation.
- 6. A crucial function of Healthwatch England will be providing leadership and support for local Healthwatch. Healthwatch England will be encouraged to have a strong principle of continuous dialogue with local Healthwatch, keeping communication lines open and acting transparently. This will facilitate Healthwatch England's responsibility to provide national leadership and support.
- 7. The Local Government Association will provide leadership and support to local authorities in planning and preparing for Healthwatch.
- 8. The intention is for Healthwatch England to be established in October 2012 and for local Healthwatch organisations to start in April 2013.

# **Section One – NHS White Paper context**

- 1.1 The current system of patient and public involvement in publicly funded health and social care is inaccessible and fragmented, has been constrained by a lack of real power, and despite two attempts at reform in the past decade is not providing the strong and constructive voice that is needed.
- 1.2. In 2003, Community Health Councils were replaced by a system of 'Patients Forums' linked to individual NHS health trusts, and overseen by a Commission for Patient and Public Involvement in Health (CPPIH). In 2008 both Patients Forums and CPPIH were abolished in favour of the current system of local involvement networks (LINks).
- 1.3 LINks are community-based, locally accountable networks of individuals, groups and organisations designed to strengthen the patient, public and user voice in the commissioning, provision and scrutiny of local services. Unlike Patients Forums, they cover state funded social care as well as health and were designed to reflect a more integrated approach to health and care. However, LINks have encountered a number of issues:
  - they have struggled to involve a wide range of people of all ages and different sections of the community, making it impossible for them to be truly representative of their local population. There has been unnecessary variation in ways of working and effectiveness, and little evidence of self-assessment or peer support;
  - there is a lack of awareness of the work of LINks among the public and health and care professionals; LINks have no consistent identity, hindering their potential to reach different groups within the local community;
  - the tripartite structure of local authority, Host organisation and LINk has in some cases led to lack of visible accountability for LINks, and a confusion about the roles, relationships and responsibilities of each of the three partners; and
  - there is no organisation to provide national leadership for LINks.
- 1.4 The White Paper outlined the government's vision for the future including that the NHS would "be genuinely centred on patients and carers" and "give citizens a greater say in how the NHS is run"<sup>2</sup>.

<sup>2</sup> Equity and excellence: Liberating the NHS Box following paragraph 1.10., pages 8-9

- 1.5 The White Paper went on to outline how the Government intends to put patients and the public first, and give citizens more say, by creating a new consumer champion Healthwatch to strengthen the collective voice of local people and give them influence nationally. It said:
  - "We will put patients at the heart of the NHS [......] we will strengthen the collective voice of patients and the public through arrangements led by local authorities, and at national level, through a powerful new consumer champion, HealthWatch (sic) England, located in the Care Quality Commission."<sup>3</sup>
- 1.6 Healthwatch will build on the strengths of the current system, address its weaknesses, and take on additional functions, recognising in particular:
  - that there needs to be a national body to provide coherence and guidance for those working at the local level: Healthwatch England will take on this national leadership role, benefitting from the efficiencies created by working with the Care Quality Commission (CQC) and strengthening the ability of local voice to influence the CQC and other national bodies such as the NHS Commissioning Board and Monitor;
  - the need for a strong visual identity, making Healthwatch at both national and local levels recognisable for users of health and social care services, and members of local communities;
  - the need for greater transparency and accountability whereby local authorities have the responsibility for commissioning an effective local Healthwatch able to carry out its statutory functions while providing value for money;
  - that local Healthwatch will have a seat on every statutory health and wellbeing board so that local people's views are integral to local decision-making about services;
  - the need for local Healthwatch to carry out its functions in an inclusive way, championing diversity, so that it can be an enabler of user and carer involvement and service improvement on behalf of the whole community, particularly for those whose voice might not otherwise be heard;
  - the need for local Healthwatch to be recognised and trusted as valuable to its statutory partners commissioning and delivering health and care services; and
  - that it will be in the interest of all partners, including the local authority, that local Healthwatch is able to operate independently and represent the voice of local people in the strengthened system of strategic needs assessment and commissioning decision-making.

<sup>3</sup> Equity and excellence: Liberating the NHS p.3

- 1.7 More information on Healthwatch England and local Healthwatch, and how they relate to each other, is set out in Section 2 of this narrative.
- 1.8 Further detailed information about Healthwatch England is in the narrative published by the Department of Health on 26 January 2012 and available on the DH website: http://www.dh.gov.uk/prod\_consum\_dh/groups/dh\_digitalassets/@dh/@en/documents/digitalasset/dh\_132418.pdf

# Section Two – Key policy ambitions

2.1 The Health and Social Care Bill 2011 proposes that Healthwatch will be the new consumer champion for both publicly funded health and social care. It will exist in two distinct forms – local Healthwatch, at local level, and Healthwatch England, at national level.

#### **Local Healthwatch**

- 2.2 Local Healthwatch goes to the heart of the government's ambition for a health and care service that is centred around patients and users. Local Healthwatch will gather people's (whether current users of services or not) views on, and experiences of, the health and social care system. In this way, community views will have real influence with those who commission and provide services about what users, carers and citizens need and want from them. This can help them to be more responsive to what matters to service users and the public, and to design services around their needs.
- Also, local Healthwatch, through its membership of the statutory health and wellbeing board, will be an integral part of the preparation of statutory Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based. This gives local Healthwatch much more influence at the decision-making table and helps to hardwire public engagement into the strategic planning of health and care services from the start.
- 2.4 The evidence and insight gathered by local Healthwatch will also be fed to Healthwatch England enabling it to advise on the national picture (for example where they see a pattern across a number of individual local concerns), in turn ensuring local views influence national policy, advice and guidance.
- 2.5 But it will go further than this: local Healthwatch will be there to support individuals by providing information and advice about access to services and choice, e.g. signposting. It is hoped that this will enable people to take more control of their own health, treatment and care, and understand and use the increased choices available to them.

- 2.6 People don't always know who they can tell about their experiences, their concerns or their compliments. Nor do they always know what difference it will make if they do speak up. It isn't always clear where people can get help if they can't find information, or if they need help to make a complaint. Local Healthwatch organisations, embedded and fully networked into communities, will provide people with a single point of contact. They can put people in touch with the right advocacy organisation, or help them find information about the choices they have; they can support people to speak out and they can give those who want to get more involved the opportunity to do so.
- 2.7 In order to be truly representative of local communities the ambition is that local Healthwatch will be part of a system rooted in local experience, harnessing the expertise of the public, community and voluntary sectors and others at the local level, particularly those working with people and groups who have a difficult time getting their voice(s) heard. Local authorities will be responsible for commissioning local Healthwatch and will have some freedom and flexibility about what organisational form it will take, based on their thorough assessment of the needs and wishes of their community.
- 2.8 In order for it to achieve these aims, it will be important for Healthwatch to be a recognisable, unified entity, at both the local and national levels. The aim therefore is to have a credible identity for all Healthwatch bodies, which the public can easily recognize. This will be achieved through a programme of communication to raise the profile of and understanding about local Healthwatch using local and national media, including voluntary sector and trade press, but also making use of web-based communication. A 'toolkit' including templates for use by local Healthwatch will be produced to facilitate coherence in the use of the Healthwatch identity.

#### **Healthwatch England**

2.9 Healthwatch England will be key to enabling the collective views and experiences of people who use, or may use, services to influence national policy, advice and guidance. Establishing Healthwatch England as a committee of CQC will help strengthen links between patient/public views and regulation, and better enable CQC to address failings in the quality and safety of care by enriching the evidence used to regulate services. This information – alongside other data that it gathers – will also inform the CQC's national work such as special reviews.

- 2.10 A crucial function of Healthwatch England will be providing leadership and support for local Healthwatch. Healthwatch England will be encouraged to have a strong principle of continuous dialogue with local Healthwatch, keeping communication lines open and acting transparently. This will facilitate Healthwatch England's responsibility to provide national leadership and support. We would expect Healthwatch England to issue guidance on best practice in a number of areas, including leadership and governance. This will work in conjunction with the role of local authorities to commission an effective local Healthwatch and to support the local Healthwatch as a strategic partner on the statutory health and wellbeing board.
- 2.11 Though Healthwatch England will have its own identity within the CQC, it will be able to benefit from the efficiencies that are created if support and infrastructure are provided by CQC. For example, provision of CQC resources to support Healthwatch England's corporate infrastructure in areas such as HR and facilities management, IT and finance will enable Healthwatch England to focus on its core functions without having to concern itself with the administrative and operational responsibilities of an organisation.
- 2.12 CQC will also be able to offer Healthwatch England valuable expertise in data management, gathering and use of intelligence, analysis and an evidence base of information about services across the country. Whatever arrangements are made for sharing policy knowledge or pooling intelligence, Healthwatch England will have operational and editorial independence from CQC; it will reach its own conclusions and publish its own findings and advice.
- 2.13 The litmus test for Healthwatch, over time, will be whether people know it is there, understand what it does, know how to use it and know that it makes sure that their voices are heard and represented.

# Section Three – Key changes to the current system

- 3.1 The government is well aware that there have been a number of different arrangements for involving people and giving them a voice in publicly funded health and social care over recent years, and that this can result in disjointed efforts. The introduction of Healthwatch provides an opportunity not only to improve on the current system, but to minimise the disruption that change inevitably brings.
- 3.2 Our plans for Healthwatch build on what is working well already but will bring even greater benefits to service users, to communities, to commissioners and providers of services. For the first time, organisations representing local voice will have a seat at the decision-making table. Local Healthwatch will:
  - be a corporate body carrying out statutory functions;
  - give people real influence over decisions about local services e.g. through its seat on the statutory health and wellbeing board;
  - as part of that board, be integral to the preparation of the Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based;
  - support individuals as well as engaging communities; and
  - receive leadership and support from Healthwatch England.

#### 3.3 Healthwatch England will:

- be a statutory committee of the Care Quality Commission, strengthening links between patient/public voice and regulation, and benefitting from the efficiencies of having support and infrastructure provided;
- use information and knowledge from local Healthwatch (among others) to ensure that people's views have influence at the national as well as the local level;
- provide leadership and support to local Healthwatch (in conjunction with the local authority responsibility to commission an effective local Healthwatch);
- present an annual report to Parliament on the way it has exercised its functions during the year. The report will be separate from the CQC's.

- 3.4 With the introduction of local involvement networks in 2008, for the first time a community-based system of involvement covered all publicly funded health and adult social care services. LINks began to give local people more say in the commissioning and provision of their local services and provided an opportunity for a greater number of people to get involved in monitoring them.
- 3.5 But, while recognising and applauding the value of LINks and their volunteers, a loosely based network of individuals, groups and organisations meant there was too much variation in their effectiveness, efficiency and reach. Some LINks, despite their best efforts, have struggled to be truly representative of their communities, often lacking diversity and failing to engage with all sections of society. Lacking national leadership, many struggled to agree governance and operating models that were inclusive and some have suffered from internal disputes and poor relationships with those they seek to influence. These weaknesses will be addressed with the introduction of Healthwatch.
- 3.6 As part of the government's localism agenda, and to "strengthen democratic legitimacy at local level, local authorities will promote the joining up of local NHS services, social care and health improvement." It is also the intention to build on local authorities' core role of engaging communities. In this context, it is right for local authorities to take the lead in commissioning local Healthwatch organisations allowing them, as it does, to maximise the complementary relationship that local Healthwatch will need to have with the wider community engagement mechanisms and activities in the local area.
- 3.7 To address one of the weaknesses of the LINks model, local Healthwatch organisations will be identifiable bodies rather than loose networks. While continuing to be independent organisations able to decide their own priorities and programmes of work, they will account to the local authority for their effectiveness and use of public funds. In turn, local authorities will be responsible for ensuring they are adequately funded and able to operate effectively. They will have leadership and support through Healthwatch England helping them to concentrate on what they have been set up to do and not have to spend more time and effort than necessary establishing their structures, governance and ways of working. Healthwatch England will be able to provide local Healthwatch organisations with standards by which to operate (for example standards which set out the outcomes local Healthwatch organisations are expected to deliver) and greater support to identify development needs and to promote good practice.

<sup>4</sup> Equity and excellence: Liberating the NHS p4 (p)

# Section Four – Roles, responsibilities and functions of local Healthwatch organisations

- 4.1 The proposals set out in the Bill mean that local Healthwatch, to be established in April 2013, will:
  - provide information and advice to the public about accessing health and social care services and choice in relation to aspects of those services;
  - make the views and experiences of people known to Healthwatch England helping it to carry out its role as national champion;
  - make recommendations to Healthwatch England to advise the Care Quality Commission to carry out special reviews or investigations into areas of concern (or, if the circumstances justify it, go direct to the CQC with their recommendations, for example if urgent action were required by the CQC);
  - promote and support the involvement of people in the monitoring, commissioning and provision of local care services;
  - obtain the views of people about their needs for and experience of local care services and make those views known to those involved in the commissioning, provision and scrutiny of care services; and
  - make reports and make recommendations about how those services could or should be improved.
- 4.2 Additionally, local authorities will take on responsibility for commissioning NHS complaints advocacy from April 2013. The intention is that local Healthwatch will either provide the service or be able to signpost people to the provider of the service.
- 4.3 Local Healthwatch will have a seat on the local authority statutory health and wellbeing board. These boards will lead the statutory Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based making local Healthwatch an important contributor to the local work on reducing health inequalities.

- 4.4 Local Healthwatch organisations will carry out statutory functions. They will be non-statutory (i.e. not created by the Bill) corporate bodies which will allow them to employ staff in addition to involving volunteers in their work. They will be able to contract out functions while remaining accountable for the public funding they receive. The proposed legislation will also ensure that, through regulations, local Healthwatch organisations will act with a view to securing that they and their subcontractors taken together are representative of their local communities.
- 4.5 As with any body we would expect local Healthwatch organisations to act in accordance with the Nolan principles of standards in public life.
- 4.6 It is the government's view that local Healthwatch organisations will be subject to the public sector equality duty under the Equality Act 2010 and the Freedom of Information Act will apply to them.
- 4.7 The legislation will allow for, and in some cases require, regulations to be made covering the following:
  - criteria to be satisfied by the bodies with which local authorities may make contractual arrangements under s221;
  - the requirements to be placed in relation to contracts between the local authority and the local Healthwatch and the local Healthwatch and its subcontractors.

    An example might be what happens in the case of a breach of contract;
  - the duties on services-providers to respond to reports and recommendations made by local Healthwatch;
  - the duties on services-providers to allow entry to authorised representatives of local Healthwatch; and
  - the acknowledgement of the referral of matters to local authority overview and scrutiny committees.
- 4.8 In addition, it is intended to make:
  - directions in relation to the matters to be addressed in local Healthwatch annual reports;
  - transfer schemes, where appropriate, for the transfer of property, rights and liabilities from hosts to local Healthwatch where host contracts continue after the commencement of local Healthwatch provisions.

- 4.9 We are also considering how the legislation might reflect that the constitution and governance of a local Healthwatch needs to ensure that it operates for the benefit of, and is accountable principally to, its local community.
- 4.10 In summary, our intention is that local Healthwatch will:
  - carry out statutory functions;
  - be corporate bodies, embedded in local communities;
  - act as local consumer champion representing the collective voice of patients, service users, carers and the public, on statutory health and wellbeing boards;
  - play an integral role in the preparation of the statutory Joint Strategic
     Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based;
  - have real influence with commissioners, providers, regulators and Healthwatch England using their knowledge of what matters to local people; and
  - support individuals to access information and independent advocacy if they need help to complain about NHS services.

# Section Five – Key issues in planning for Local Healthwatch

#### **Organisational Form**

- 5.1 Local authorities in England are to be placed under a duty to commission a local Healthwatch organisation for their area. The intention is for local Healthwatch organisations to be corporate bodies carrying out statutory functions. This will allow local authorities some flexibility to commission a local Healthwatch organisation that best suits local need. This is why we are laying an amendment to the Health and Social Care Bill to remove the constraints on local Healthwatch's organisational form.
- 5.2 This flexibility over the organisational form of local Healthwatch organisations means local authorities can make use of existing voluntary and community sector expertise in engaging local communities and delivering outcomes through organisations that have lay members at their heart. We want to see local Healthwatch organisations operating as part of existing local community networks ensuring they can have maximum reach across the diversity of the local community. Local Healthwatch will be funded by local authorities but will still be expected to challenge them constructively. And they will be able to work with employed staff in addition to the many thousands of volunteers who continue to give of their time and energy to make sure local people can have their say.

## Independence and respective roles of local Healthwatch organisations and local authorities

5.3 Local Healthwatch organisations will be able to determine their own programmes of work, and look into issues of concern to members of the community. They will be able to gather people's views and use them to speak out on behalf of patients, service users and carers and the public. They will be able to use their knowledge to influence both at the strategic level, through their membership of the statutory health and wellbeing board, and with individual commissioners and providers. They will be able to write reports on their findings and make recommendations about how services could or should be improved. Services-providers, such as local authorities and NHS bodies, will be under a duty to respond to local Healthwatch reports and recommendations. Commissioners and providers will also have to have regard to the reports and recommendations and will have to be able to justify their decision if they do not intend to follow through on them.

- 5.4 Healthwatch will play a prominent role in the new health and care system. Local authorities will be under a duty to act to ensure the local Healthwatch is effective as well as value for money. To a large extent, local Healthwatch organisations' independence and power will depend on the way they operate, behave, build and maintain relationships and challenge commissioners and providers based on the most robust of evidence.
- 5.5 There have been some concerns voiced that there may be conflicts of interest between local Healthwatch being funded by a local authority and being able to challenge them effectively when required. First and foremost, growing the relationship between local Healthwatch and local authorities will help local Healthwatch become the local authority's critical friend, which will be key to getting people's voices heard. However, there may still be conflicts of interest that arise and are not being well managed by either organisation and to which, in exceptional circumstances, Secretary of State issues guidance to which local Healthwatch and local authorities will be required to have regard. The place for local Healthwatch as an equal member on the local health and wellbeing board emphasises that it is in the interest of all partners, including the local authority, that local Healthwatch is able to operate independently and represent the voice of local people in the strengthened system of strategic decision making and collaborative local leadership.
- The government's aim is for local Healthwatch to hold commissioners and providers of services to account, acting as a critical friend to help bring about improvements. This requires local Healthwatch to foster good relationships with all its partners in the health and care system speaking up for local people and helping those responsible for services to improve outcomes.
- 5.7 Local authorities and the community and voluntary sectors have vast experience of working together in this way; strengthened community engagement providing access to the views of local people is beneficial to local authorities in carrying out their own functions. The case for engagement has long been made: our ambition for Healthwatch is that the engagement of local people, and giving them a voice, will reap rewards in terms of efficiencies as well as improved outcomes and user experience.
- 5.8 The Local Government Association also has a key role to play in helping local authorities determine what an effective and user-centred local Healthwatch should look like, to identify any barriers to successful implementation and commissioning strategies and to support the cascade of learning across all local authorities.

#### Relationship between local Healthwatch and Healthwatch England

- 5.9 Local Healthwatch will gather people's views and act as the local collective voice to influence services in the interests of local people. It will also feed information about people's views and experiences to Healthwatch England so that the local voice has national influence.
- 5.10 Healthwatch England will provide leadership and support (for example through advice and assistance) to local Healthwatch organisations. Supporting it to identify key areas of concern at the national level, it will also gather and analyse information from local Healthwatch and be able to facilitate the sharing of knowledge and good practice between local Healthwatch organisations. We would expect Healthwatch England to issue guidance on best practice in a number of areas, including leadership and governance.
- 5.11 Healthwatch England and local Healthwatch will share a unique identity and a recognisable "brand" at both national and local level. The "brand" goes much further than just a visual identity, important though this is. The reputation of Healthwatch as a consumer champion, representing the views of patients, service users and carers and the public, acting as an independent and authoritative voice on what matters most to people in their health and care services, and working relentlessly on their behalf will be embedded in that identity.

#### **Funding**

- 5.12 The government currently allocates £27 million each year to local authorities for LINks through the local government Formula Grant. In 2012/13 and an additional £3.2 million will be made available to support start-up costs for local Healthwatch (through the DH Learning Disability and NHS Reform Grant).
- 5.13 In 2013/14, the current £27 million funding for LINks will become funding for local Healthwatch organisations, each year. Additional funding will be made available to local authorities from 2013/14 to support both the information function that local Healthwatch will have and also for commissioning NHS complaints advocacy. Information about funding allocations will be made available in the routine notifications to local authorities later this year.

#### **Supporting preparations**

- 5.14 A number of initiatives are under way to support preparations for local Healthwatch. These include:
  - learning sets for LINks members covering topics such as leadership, representation, equality and diversity, and "enter and view";
  - extracting and sharing learning from the 75 Healthwatch pathfinders that have been running since August 2011;
  - the National Learning Network for early implementer health and wellbeing boards, in particular a learning set on hardwiring public engagement into the work of the boards;
  - targeted support for local authorities, in partnership with the LGA;
  - continuing engagement with LINks, the VCS and other stakeholders through online communities and one off events to share ideas and to encourage local planning, including plans for transfer of intellectual property and to support existing volunteers to play a strong role in the new system;
  - development of systems to share information between Healthwatch England and local Healthwatch (led by CQC until Healthwatch England is established); and
  - CQC is working with LINks to look at the introduction of local Healthwatch and the implications for the relationship.

## **Section Six – Summary**

- 6.1 The government's intention to put patients and the public first means that, more than ever, the health and social care system in England needs to be aware of, and responsive to, the views and experiences of service users and their carers and the public.
- 6.2 It is anticipated that the establishment of Healthwatch will provide recognisable organisations able to champion the voice of patients and the public, at both the local and national level and to play a role in holding the new system to account. Healthwatch will have an active role in ensuring commissioning decisions about priorities and services are based on the needs and experiences of local people.
- 6.3 Creating Healthwatch England gives local voice national influence and the ability genuinely to affect the high-level work of commissioners and regulators, to ensure that the collective voice of patients and the public can play a fundamental role in the decision-making process. And local Healthwatch organisations will act as community representatives as well as supporting individuals. Local Healthwatch will influence commissioning decisions about publicly funded services through its seat on the statutory health and wellbeing board. These boards will lead the Joint Strategic Needs Assessments and joint health and wellbeing strategies on which local commissioning decisions will be based.
- 6.4 For Healthwatch to succeed in its aims, it will need to undergo continuous development and improvement. This will require the ability to be responsive and Healthwatch will need to act according to changing national and local needs. At national level, Healthwatch England must be prepared to respond to issues raised at local level, and escalate those issues to the relevant national body. Local Healthwatch will need to be inclusive, authoritative and accessible to all.

