

# Report of the Strategic Director of Health and Wellbeing to the meeting of the Health and Social Care Overview and Scrutiny Committee to be held on 7 September 2017

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## **Subject:**

Briefing Note for Projects over £2m – Independent Advocacy Service Procurement

## **Summary statement:**

In line with Council Standing Order 4.7.1 all contracts with an estimated value of over £2m must be reported to the relevant Overview and Scrutiny Committee before inviting tenders. This report details the above requirement.

This report sets out the Independent Advocacy Service commissioning project being undertaken. This activity is in line with the Department's procurement plan and the Department's Transformation Programme work. This is a collaborative project with the Airedale, Wharfedale and Craven CCG, Bradford City CCG and Bradford Districts CCG. .

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**Overview & Scrutiny Area:**  
**Health & Social Care**

## **1. SUMMARY**

- 1.1 In line with Council Standing Order 4.7.1 all contracts with an estimated value of over £2m must be reported to the relevant Overview and Scrutiny Committee before inviting tenders. This report details the above requirement.
- 1.2 This report sets out the Independent Advocacy Service commissioning project being undertaken. This activity is in line with the Department's procurement plan and the Department's Transformation Programme work. This is a collaborative project with Airedale, Wharfedale and Craven CCG, Bradford City CCG and Bradford Districts CCG.

## **2. BACKGROUND**

- 2.1 The Department procures and manages a wide range of (predominantly) service contracts that deliver care and support to vulnerable adults in the Bradford district.
- 2.2 Every contract the Department holds is reviewed through the Departments Procurement Assurance Board and the Departmental Transformation Programme Board, which is accountable to the Corporate Priority Delivery Programme Board.
- 2.3 The Independent Advocacy Service Contract ('the Contract') set out in this Committee report has been through the business planning process and is part of the transformational and integration programme work being undertaken by the Department.
- 2.4 The Contract will be the first European Union (EU) procurement exercise to have been undertaken by the Department for contracts for these services. It is envisaged that the new service(s) are likely be procured for a period of around three years therefore the aggregated value of the procurement will exceed £2m.

The current services are provided by 5 Providers under 15 arrangements some of which are joint funding arrangements with the NHS and some of which are in the form of Council grants.

- 2.5 This procurement is being undertaken in order to ensure that the Council is meeting its statutory duties under the Care Act 2014, Mental Health Act 2007 and the Mental Capacity Act 2005 and to cater for future demand. The change in the way the Department procures services has been agreed by the Department's senior managers.
- 2.6 The Project exceeds the EU Procurement threshold and therefore will be tendered in line with EU Procurement Regulations and Council Standing Orders.

## **3. REPORT ISSUES**

- 3.1 The current Advocacy provision is provided by 5 Providers under a number of arrangements, some of which are joint funded with the NHS and some of which are in the form of Council grants. All services are grant funded and have been in place for a number of years. This work is divided into 2 categories; Independent Advocacy

and Self and Group Advocacy. In addition, there are 2 further services that we propose to bring in scope of advocacy services; a summary table can be found below.

### 3.2. Overview of current services:

Advocacy Type	Description	Value
Independent Advocacy – Statutory and Non statutory	This aims to give impartial advocacy support, independent to the Council. It is required to meet our statutory duties under the Mental Health Act 2005, Mental Capacity Act 2007 and the Care Act 2014, for example to ensure that people are appropriately involved when decisions are being made about their care, or that people where people lack capacity to give informed consent. It also provides support to people where there is not a statutory duty but it is recognised that there is a need, for example pensions and benefit issues to Older People.	£392,195.00BMDC £124,671.00CCG
Self and Group Advocacy	This is support to individuals and groups to self-advocate, for example to facilitate feedback on disability issues.	£89,905.00.00BMDC £184,000.00CCG
Peer and Mentoring	This supports peer and mentoring support to Service user Involvement Group as they advocate on Housing Related Support services.	£15,975.00BMDC
Support to BOPA	This provides secretariat support and a degree of peer and mentoring support to the partnership members as they advocate on older people's issues.	£37,200.00BMDC
Total		£535,275.00BMDC £308,671.00CCG Grand total £843,946.00

- 3.3 Since the initial agreements were set up, the landscape has altered substantially, with changes to the statutory advocacy duties notably introduction of the Care Act 2014 which broadens the scope of duties to be provided, including where the LA considers the person may have substantial difficulty in engaging with the care and support process and where there is no appropriate person who can facilitate their involvement.

In addition, the impact of the Cheshire West ruling in 2014 has seen a large increase in applications for DoLS which often need a paid RPR when there are no other appropriate friends and family to take on this role. The paid RPR is usually an IMCA.

Locally, Bradford has seen an increase in the need for paid RPRs but have not provided additional funding. There is now a backlog in excess of 1,350 cases. There is also an increasing need to make Re X applications to the Court of Protection for people who are deprived of their liberty within the community.

- 3.4 It is proposed that the Local Authority and Clinical Commissioning Groups adopt a joint approach to commissioning independent advocacy in line with EU Procurement regulations, with a view to establishing contracts through an Open

tender process and reviewing the various funding arrangements. To facilitate this we will run a procurement exercise through the on-line Pro-contract, YORtender web portal.

- 3.5 As part of this process, forecasts are being developed for the future demand to ensure that we meet our duties around statutory advocacy as well as retaining some provision for non-statutory and self and group advocacy. Good practice in other areas also points to the development of a single gateway which provides a more coherent pathway and this will be considered.
- 3.6 Engagement has already started with current providers and a Prior Information Notice (PIN) was issued on the 22nd of December 2016 inviting expressions of interest to open the market up to wider competition, to which we received 19 responses. The message above was conveyed to all current providers, plus interested potential providers from inside and outside the district at an event on the 12th June 2017. Representatives from 38 organisations attended this event, representatives include frontline staff, Management Committee and service users.
- 3.7 The current grant arrangements end on 30 September 2017 and have been extended to 31 March 2018 which will align with the CCG funding arrangements and allow us to procure services through a tender.

#### 4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The budget for this procurement has been agreed jointly with the CCG and Health & Wellbeing department and has been agreed in line with Departmental Transformation Board.
- 4.2 The previous financial envelope for all services was £836, 946 (as detailed in 3.2 above). Our current financial forecasting for these services indicates that going forward, we will need a budget of circa £776, 946 to meet demand. It is proposed that the £60,000 projected saving in this budget will be used to support further MCA and BIA assessments within the DoLS budgets which needs additional investment in order for the Council to meet its Statutory requirements.
- 4.2 Overview of Proposed Services.

<b>Advocacy Type</b>	Description	Value (Circa)
Independent Advocacy – Statutory and Non statutory	The Council intends to commission a single provider to meet all statutory requirements on the Council for the provision of Independent Advocacy under the terms of the Care Act 2014, the Mental Capacity Act 2005 and the Mental Health Act 2007 as described above. This is across all categories of need and access will be through a single gateway.	£606, 946
Self and Group Advocacy, Volunteering and capacity Building.	The Council intends to commission a single provider to deliver all aspects of Peer and Group Support, Volunteering and Capacity Building across the District.	£170,000

Savings	It is proposed that this is reinvested into the MCA budget	£60,000
Total		£836, 946

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

- 5.1 An advocacy project team was set up to manage the work and associated risks. This includes members from H&WB department: commissioning, MCA and DoLS and CCG.
- 5.2 The advocacy project will report to the Departments Procurement Assurance Board and the Departments Transformation Programme Board to ensure the procurement and resulting contract sits within the Departments vision and priorities.

## **6. LEGAL APPRAISAL**

- 6.1 The procurement of the advocacy services is to ensure the Council is meeting its statutory duties under the Care Act 2014 and the Mental Capacity Act 2005 and to cater for future demand.
- 6.2 The Councils Legal Services will form part of the project group for the procurement of this service and will provide advice on both commercial and social care legal aspects.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

- 7.1.1 As part of the commissioning process equality impact assessments will be carried out at various stages in the commissioning and procurement process to ascertain the impact of changes in service provision.

### **7.2.1 SUSTAINABILITY IMPLICATIONS**

None

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

None

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

None

### **7.5.1 HUMAN RIGHTS ACT**

- 7.5.1 The implementation of the Councils' duties under the Care Act 2014 must be discharged in keeping with the positive obligations incumbent of the Council to uphold and safeguard people's human rights in keeping with the European Convention on Human Rights and the statutory principles of the Mental Capacity Act 2005 Code of Practice.

**7.6 TRADE UNION**

None

**7.7 WARD IMPLICATIONS**

None

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS  
(for reports to Area Committees only)**

None

**8. NOT FOR PUBLICATION DOCUMENTS**

8.1 None

**9. OPTIONS**

9.1 There are no options associated with this report. Its contents are for information only.

**10. RECOMMENDATIONS**

10.1 The content of the report should be noted.

**11. APPENDICES**

11.1 None

**12. BACKGROUND DOCUMENTS**

12.1 None