

Report of the Strategic Director of Health and Wellbeing to the meeting of Health and Social Care Overview and Scrutiny Committee to be held on 21st March 2019

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Subject:

Independent Advocacy Services in the Bradford District.

Summary statement:

This report outlines the recent commissioned Independent Advocacy that was jointly commissioned by the Council and the Bradford Districts Clinical Commissioning Groups (CCG).

The report also sets out the wider context of advocacy and what other services are available across the District and how future services might be shaped.

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Overview & Scrutiny Area:
Health and Social Care

1. SUMMARY

- 1.1 This report outlines the recent commissioned Independent Advocacy that was jointly commissioned by the Council and the Bradford District and Craven NHS Clinical Commissioning Groups (CCG).
- 1.2 The report also sets out the wider context of advocacy and what other services are available across the District and how future services might be shaped.

2. BACKGROUND

- 2.1 On 7th September 2017 Health & Social Care Overview and Scrutiny Committee in line with Standing Order 4.7.1, considered the £2m Committee report for joint re-commission, by the Council and the CCGs of Independent Advocacy services.
- 2.2 It was resolved at the above Committee that a report on advocacy services was to be submitted to the Committee in 2018/19. This report therefore sets out the following:
 - An outline on the jointly commissioned new services
 - The wider context of advocacy and what other services are available in the district and how this might shape future services
- 2.3 Discussion took place at Committee regarding the changes the re-commission would introduce. At the time there were a number of different contracting/grant arrangements funded by the Council and the Bradford's District and Craven NHS Clinical Commissioning Groups (namely, NHS Bradford City, NHS Bradford Districts and NHS Airedale, Wharfedale and Craven CCGs).
- 2.4 Committee resolved that comments around consultation be taken into account. In re-commissioning the services consultation and engagement, with stakeholders and people using advocacy services was undertaken and formed the basis of the re-commission.
- 2.5 Committee also resolved that performance on meeting statutory advocacy requirements be submitted to committee. This report sets out how this is now delivered through the statutory advocacy contract. On-going monitoring of the contracts ensures performance is managed in order that statutory requirements are met.
- 2.6. The purpose of the re-commission was to ensure that people had greater choice and control over how their health and social care services were delivered through a new joint approach to funding advocacy services. From the Care Act in 2014, flowed a duty to provide independent advocacy to facilitate the involvement of a person who would otherwise have difficulty.
- 2.7 Introduction of the Care Act in 2014 (CA 2014) changed the role of statutory advocacy and the duties required of the local authorities role. This new duty sits alongside existing statutory duties to provide Independent Mental Capacity

Advocates (IMCA) under the Mental Capacity Act 2005 and Independent Mental Health Advocates (IMHA) under the Mental Health Act 2007.

2.8 Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society, are able to have their voice heard on issues that are important to them; have their rights defended and safeguarded; have their views and wishes genuinely considered when decisions are being made about their lives.

2.9 There are different forms of advocacy and the role it plays can be varied. Advocacy can sometimes be confused with other functions that can provide support. The Advocacy Charter developed by the National Development Team for Inclusion (NDTi), for advocacy providers sets out the following principles:

- Clarity of purpose
- Promoting independence
- Maintaining confidentiality
- Person led
- Empowerment
- Equality & diversity
- Accessibility
- Accountably
- Safeguarding
- Supporting advocates

2.10 In relation to providing statutory advocacy under the Care Act 2014 it gives eligible people the right to have an independent advocate who can, support and assist their involvement in needs assessments, care and support planning, safeguarding enquires and safeguarding adult reviews and help them understand the processes and options available to them. Local authorities must involve people in decisions made about them and their care and support. No matter how complex a person's needs, local authorities are required to help people express their wishes and feelings, supporting them in weighing up their options, and assist them in making their own decisions.

2.11 Advocacy is one of a number of key enablers for delivering the vision for Home First in Bradford which focuses on keeping people at home as long as possible through early intervention and prevention services which deliver personalised care to individuals according to their own needs, wishes and preferences and assets.

2.12 The Mental Wellbeing Strategy places great emphasis on wellbeing and the wider determinates of mental health. The strategy is based upon the integration of Care Act 2014 with the Five Year Forward View plan to ensure that mental health services are providing the full range of support required in an integrated way. Advocacy is crucial to ensuring people have the information and support to personalise their care packages and maintain their rights during in-patient stay.

2.13 The Transforming Care Programme for Bradford and the CCGs, (NHS England Transforming Care for People with Learning Disabilities and or Autism), focuses on improving the lives of all people with a learning disability, autism or both. Transforming care is committed to enabling more people to live in the community, closer to home and with the right support. Reducing unnecessary admissions to

specialist in-patient services and ensuring that for those who do require in-patient services is outcome focused and only for as long as they need it. Advocacy has a key role to play in supporting people to make informed decisions about their lives including in-patients and those at risk of admission to specialist in-patient service via the Care and Treatment Review process. We provided support for Equality Together to achieve information governance standards.

2.14 In line with the above requirements the Council and the CCGs jointly awarded, in December 2017, two contracts for Independent Advocacy services following a commissioning and procurement process. The two contracts commenced in April 2018, following an implementation period. The contracts awarded provide the following Independent Advocacy Services:

- Statutory and Non Statutory Advocacy- provided by Voiceability
- Self and Group Advocacy, Capacity Building and Volunteering- provided by Equality Together sub-contracting to People First Keighley and Craven and Bradford People First.

2.15 Outside of the above commissioned services there are a range of other organisations that provide non statutory advocacy services both to people using social care and health care services, which the Council and the CCGs do not commission but provide self advocacy and provide an important role capturing people's views and supporting them. These include, but not limited to Carers Resource, Age UK, Vital, and Alzheimer's Society.

3. REPORT ISSUES

3.1 The Council and the CCGs, following market engagement with the advocacy sector and a commissioning process, have jointly commissioned two Independent Advocacy Services which have now been in place for nearly a year:

- Statutory and Non Statutory Advocacy
- Self and Group Advocacy, Capacity Building and Volunteering

3.2 Statutory and Non Statutory Advocacy Services

3.2.1 The service provided by Voiceability provides a single gateway for the provision of statutory and non-statutory advocacy services that can be accessed by health and social care professionals, as well as self-referrals.

3.2.2 The requirement of the contractor is to ensure the Council and the NHS meets its statutory requirements in relation to the Care Act 2014, the Mental Capacity Act 2005 and the Mental Health Act 1983 (amended 2007).

3.2.3 The service also accepts referrals for non-statutory advocacy where it has capacity to do so once statutory advocacy obligations are met.

3.2.4 The key objective of the statutory advocacy services is to provide the statutory advocacy services to any eligible people in accordance with the three principal

statutes and all associated regulations and code of practice:

- The Care Act 2014
- The Mental Capacity Act 2005, including the Deprivation of Liberty Safeguards (2009)
- The Mental Health Act 1983 (amended in 2007)
- The Equality Act 2010
- The Health and Social Care Act 2012

3.2.5 Set out in the table below is the various advocacy service roles that are required in relation to statutory advocacy services:

Independent Mental Health Advocacy (IMHA) – Mental Health Act 1983 (amended 2007)

This is an independent advocate who is trained to support people to understand their rights under the Mental Health Act 1983 (amended 2007) and will participate as necessary in decisions about the individual's care and treatment.

Deprivation of Liberty Safeguards and Paid relevant person's representative (DoLS – Paid RPR) – Mental Capacity Act (MCA) 2005

Where there is a Standard Authorisation of a deprivation of an individual's liberty, the local authority must appoint a relevant person's representative (RPR) to represent the person who has been deprived of their liberty.

The role of the RPR is to maintain contact with the relevant person, and to represent and support the relevant person in all matters relating to the deprivation of liberty safeguards, independent of the commissioners and providers of the services they are receiving.

Safeguarding – Care Act 2014

An independent advocate is appointed to support and represent the person for the purpose of assisting their involvement in a Safeguarding enquiry or Safeguarding Adults Review. This will only happen in situations where the following two conditions are met; the person has substantial difficulty in being involved and if there is not an appropriate individual available to support them.

Independent Mental Capacity Advocate (IMCA) – Mental Capacity Act 2005

IMCAs are a legal protection for people who lack the capacity to make specific important decisions. These include making decisions about where they live and about serious medical treatment options. IMCAs are usually instructed to represent people when there is not a family member or friend available, or who is able, to represent the person.

Rule 1.2 Representatives (Re-X) – The Court of Protection Rules 2017

A 1.2 Representative is a person who is able to consider whether, from the perspective of an individual's best interests (A 1.2 representative can be but not always an advocate), they agree or do not agree that the Court should authorise the individual's package of care, which would result in a deprivation of the individual's liberty.

Litigation Friend – The Court of Protection Rules 2007

A 'litigation friend' is a suitable, willing and able person appointed by the court to represent a 'protected party' (a litigation friend can be but is not always an advocate). The litigation friend must act in the protected party's best interests and can give instructions on the behalf of an adult who lacks the mental capacity to conduct their own court case.

Care Act – Care Act 2014

Local authorities must involve people in decisions made about them and their care and support. No matter how complex a person's needs, local authorities are required to help people express their wishes and feelings, supporting them in weighing up their options, and assist them in making their own decisions. The service is commissioned to promote awareness and understanding of statutory advocacy services to those people in receipt of service, their carers, voluntary and community organisations, health and social care professionals.

Equality Act – Equality Act 2010

Local authorities and CCGs must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations and ensure contracts with providers are designed in such a way as to meet the advocacy needs of people who share protected characteristics.

Health and Social Care Act – Health and Social Care Act 2012

Public sector organisations must provide support to people who want to make a complaint about the NHS, and need some support to do this. Support may range from receiving a self-help pack, information and options, to support from an advocate, depending on needs.

3.2.6 The service also provides advice and support around statutory advocacy issues to the general public and health and social care professionals.

3.2.7 The role of the service is also to develop good working relationships with health and social care organisations, wider advice/advocacy organisations and the voluntary and community sector.

3.2.8 Appendix 1 sets out the service outcomes and objectives for the statutory and non statutory advocacy service.

3.3 Self and Group Advocacy, Capacity Building and Volunteering Services

3.3.1 The Council and CCGs have commissioned Equality Together to deliver the above advocacy services. The Council and the NHS are required to:

“Consider the person’s own strengths and capabilities and what support might be available from their wider support network or within the community to help in considering what else other than the provision of care and support might assist the person in meeting the outcomes they want to achieve”.

3.3.2 The service is open to any resident in the Bradford District by direct referral from a range of health and wellbeing agencies e.g. GPs, hospitals, other NHS agencies, Community Mental Health workers, Social Workers, etc., and through self-referral. The service is for all persons requiring support to express and/or represent their own interests and obtain the care and support they need.

3.3.3 Self and group advocacy refers to a range of measures which may support a person to express and/or represent their own interests and obtain care and support. The service has developed an infrastructure of volunteer peer supporters who work across local communities, supporting people who are in receipt of health and social care services.

3.3.4 The key aims and objectives of the service are to:

- Improve outcomes for Service Users and their Carers who are in need of Self and Group Advocacy;
- Improve awareness and understanding of Self and Group Advocacy concepts amongst service users, Carers, professionals and health and wellbeing partners across the public, private and voluntary and community sector.
- Ensure sufficiency of supply of Self and Group Advocacy and contribute to developing self-advocate capacity and infrastructure.
- Provide a contact point and relevant information for people who need Self and Group Advocacy, their Carers, friends and family members.
- Promote awareness campaigning opportunities and projects aimed at increasing the understanding of issues faced by people with learning disabilities, for example Healthy Living, Hate Crime, and self care
- Provide or commission appropriate training for volunteers within Bradford to ensure sufficiency of supply of volunteer peer support.
- Provide advice and support around Self and Group Advocacy, Capacity Building and Volunteering to the general public and health and social care professionals.
- Develop good working relationships with health and social care organisations strategic partnerships, wider advice / advocacy organisations and the voluntary & community sector.

3.3.5 Appendix 1 sets out the service outcomes and objectives for the self and group advocacy service.

3.3.6 Both advocacy service contracts have been in place for a year and are fully operational. The Council and the CCG have regular meetings/liaison with the providers where operational issues are discussed and service levels monitored.

3.4 Wider Advocacy and engagement across the Bradford District

3.4.1 The focus of advocacy is to ensure people have choice and control in relation to the support they receive. As well as the services that are directly commissioned by the Council and the CCGs, there are a range of opportunities for the voice of the “self-

advocate”.

- 3.4.2 Examples include the work being undertaken by the “Big Conversation”, where people with Learning Disabilities and Autism are being asked about what the idea of a good life looks like.
- 3.4.3 Community Led Social Work is about moving towards a model of community based social work practice which recognises people as experts in their own lives and builds on the strengths within their networks and family. This is co-production which brings people together to talk about what will work for them in terms of support.
- 3.4.4 Many organisations, both statutory and voluntary, provide self advocacy in some form. The commissioning process is designed to capture the voice of the person to help co-design services.
- 3.4.5 There are systems and structures in place that help people navigate and connect to health and social care systems. To an extent these provide a certain amount of self advocacy for people. Greater connection across the services could lead to more resource in relation to advocacy.
- 3.4.6 It is clear that investing in self advocacy is important, it plays a role in connecting those it supports to build their own knowledge connections and thereby resilience. This in turns strengthens people to make their own informed choices and helps to design the services/support required.
- 3.4.7 Advocacy has an increasingly important role to play in the lives of people. Giving people control over their own lives, when systems and services are changing rapidly it helps all to ensure outcomes are achieved for all.
- 3.4.8 It is understood that there is a feeling of un-met need in relation to self advocacy. This may have arisen due to increasing need from changes in the welfare benefits system and the changing role and focus of services provided to people in need of support and prevention services.
- 3.4.9 It is clear that there are challenges in relation to providing advocacy services:
- Advocacy can have a wide meaning and interpretation
 - Advocacy can “tip into” advice or support
 - Changes in services and systems are meaning people are requiring more advocacy support
 - People are encouraged to take control and have a voice –this means increased need for advocacy services

3.5 Looking Forward

- 3.5.1 There are a range of factors that have led to the growing role of advocacy, legislation (the Care Act 2014, the Health and Social Care Act 2012 etc.), the move to greater choice for people and a strength based approach to social work. Getting the role of statutory advocacy right is of key importance for the department. The first priority for adult social care funding had to be to meet statutory requirements which had changed and increased significantly, whilst also recognising the value of non-statutory advocacy for those people who are or may become eligible for social care

services. It was also highlighted that funding needed to be used to support further Mental Capacity Act and Best Interest Assessments and practice within the department to ensure the Council and the CCGs were meeting their statutory requirements.

- 3.5.2 It has been fed back from the advocacy sector, that the recent introduction of Universal Credit and Personal Independence Payments (PIP's) has created issues for some vulnerable people who have then sought support and advice. This will potentially have a knock on effect on people's health and wellbeing, amongst other things, and is a challenge for the Council.
- 3.5.3 Advocacy was previously commissioned through a range of grant agreements from a number of organisations. These arrangements had been in place for a number of years and they enabled a fluid approach to advocacy support and allowed the wider remit of advocacy to be pursued.
- 3.5.4 The re-commissioning of these services had led to a change in the system that has enabled the Council and the CCGs to meet their statutory requirements and provide a wider advocacy function.
- 3.5.5 Networks and structures are in place across the Bradford District to provide all forms of advocacy. What we need to do going forward is harness these networks and expand them further to ensure that the voice of the person is heard and provides challenge to what we do.
- 3.5.6 Ensuring that networks provide a voice for people is very important. Advocates have a key role to play on forums ensuring that they provide a voice for people.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 There are no financial issues arising from this report.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 By addressing the issues raised, the statutory needs of people within the Bradford district will be met appropriately through the contract that has been put in place for Statutory Advocacy Service and the legal framework for social work practice.
- 5.2 The governance structure of this work will sit within the Health & Wellbeing Department and will report to Departmental Management Team and the Executive Commissioning Board and to Health and Wellbeing Board.

6. LEGAL APPRAISAL

- 6.1 The Care Act places a duty on local authorities to arrange an independent advocate to be available to facilitate the involvement of an adult or carer who is the subject of an assessment, care or support planning or review process, if that local authority considers that the adult would experience substantial difficulty in understanding the

processes or information relevant to those processes or communicating their views, wishes, or feelings.

- 6.2 The duty under the Act does not apply if the local authority is satisfied there is an appropriate person to represent the adult, who is not engaged in providing care or treatment to the adult in a professional or paid capacity, and the adult consents to being so represented by that person, or where the adult lacks capacity to consent, the local authority is satisfied that it would be in the adult's best interests to be represented by that person.
- 6.3 Regulations specify the arrangements on the provision of independent advocacy including the requirements for an independent advocate, what a local authority has regard to in determining whether an individual would experience substantial difficulties in their involvement in the assessment, specifying any circumstance in which any exception does not apply, and making provision as to the manner in which independent advocates are to perform their duties.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

- 7.1.1 The service provided through this commissioning and procurement process is designed to support some of the most vulnerable residents in Bradford's communities. As such they are an important part of the approach to equality and diversity as they seek to empower those who may not have a voice.
- 7.1.2 The on-going monitoring of the contract will provide information on any changes and ensure they are addressed.

7.2 SUSTAINABILITY IMPLICATIONS

- None.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

Not applicable.

7.4 COMMUNITY SAFETY IMPLICATIONS

None.

7.5 HUMAN RIGHTS ACT

- 7.5.1 The implementation of the Councils' and CCGs duties under the Care Act 2014 must be discharged in keeping with the positive obligations incumbent of the Council and NHS 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.
- 7.5.2 In implementing the Care Act 2014 must safeguard people's Human Rights whether or

not the person has capacity to consent.

7.5.3 The Human Rights Act 1998 provides a legal basis for concepts fundamental to the well-being of people and others who are in need of Independent Advocacy Support. The Act provides a legal framework for service providers to abide by and to empower service users to demand that they be treated with respect for their dignity.

7.6 TRADE UNION

Not applicable.

7.7 WARD IMPLICATIONS

Not applicable.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS

Not applicable.

7.9 IMPLICATIONS FOR CORPORATE PARENTING

Not applicable.

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

Not applicable.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

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

10. RECOMMENDATIONS

10.1 That the contents of the report be noted.

11. APPENDICES

Appendix 1 – Independent Advocacy Service Outcomes

12. BACKGROUND DOCUMENTS

None.