

Cabinet Member for Adults and Health	Ref No: AH7 18-19
October 2018	Key Decision: Yes
Procurement of Integrated Advocacy Services	Part I
Report by Executive Director Children, Adults, Families, Health and Education and Director of Adult Services	Electoral Divisions: All
<p>Summary</p> <p>This report concerns a procurement exercise for integrated advocacy services to be delivered from July 2019, jointly with Brighton & Hove City Council and East Sussex County Council.</p> <p>The County Council currently commissions a number of separate advocacy services; some jointly funded with West Sussex Clinical Commissioning Groups (CCGs). Decisions were approved to extend existing contracts until 30 June 2019, to allow for discussion and consideration of an integrated advocacy contract and procurement options with neighbouring Local Authorities.</p> <p>It is anticipated that a joint service will improve quality for service users and Council staff; give one point of access for service users and referrers, reduce duplication of services and reduce associated management costs.</p> <p>The Cabinet Member will be asked to agree to the commencement of a procurement exercise and to delegate authority to the Director of Adult Services to award a contract from 1 July 2019 to March 2024 at a cost of not more than £652,429.</p>	
<p>West Sussex Plan: Policy Impact and Context</p> <p>Impact on the West Sussex Plan – a council that works for the community.</p> <p>The service will be customer focussed with one front door access point for customers needing the services. This reflects the feedback from service users and provides a more customer focussed service.</p>	
<p>Financial Impact</p> <p>Total contract value up to £652,429 pa</p>	
<p>Recommendations</p> <p>That the Cabinet Member approves:</p> <ol style="list-style-type: none"> (1) A joint procurement exercise for Integrated Advocacy Services with Brighton & Hove City Council and East Sussex County Council. (2) For a contract to be let up to a value of £359,500, to commence 1 July 2019 for 4 years, with an option for a further £292,929pa for mental health advocacy services to become part of the contract from 1 April 2020 for the remainder of the contract term. (3) To delegate to the Executive Director of Adult Services to award the contract for Independent Mental Capacity Advocates, Independent Care Act Advocates to the most advantageous tenderer. 	

PROPOSAL

1. Background and Context

- 1.1 Within this report the term advocacy is used to describe the support given to individuals to allow their voice to be heard and their wishes to be expressed in situations where they may be unable to do this fully by themselves. Advocates and advocacy providers work in partnership with the people they support and promote social inclusion and equality.
- 1.2 Advocacy is essential for people who due to a disability, health condition, communication difficulty, financial circumstances or social attitudes, find themselves in a position where their ability to exercise choice or represent their own interests is limited, or where processes are particularly complex to navigate, such as social care and health pathways. Advocates play an important role in feeding back to the Council and NHS on how to improve services to make them more accessible to people.
- 1.3 There are statutory duties for the following advocacy provision:
 - Independent Mental Capacity Advocates (IMCA) under the Mental Capacity Act 2005
 - Independent Mental Health Advocates (IMHA) under the Mental Health Act 2007
 - Independent Care Act Advocacy (ICAA) under the Care Act 2014
- 1.4 WSCC and the West Sussex Clinical Commissioning Groups (CCGs) jointly fund advocacy IMHA services. WSCC solely funds ICAA & IMCA.
- 1.5 There are currently five advocacy contracts provided by three community and voluntary sector providers, with a total value of £651,429Z pa (Appendix 1).
 - funding is WSCC direct / pooled budgets or from CCGs
 - WSCC/pooled budget £379,618
 - CCGs £259,311
- 1.6 Advocacy contracts for IMCA and Independent Care Act advocacy services expire on 30 June 2019, having with been commissioned via competitive tender. The IMCA service is the only service currently commissioned as a pan-Sussex service jointly with East Sussex and Brighton & Hove.
- 1.7 IMHA, Working Adults Mental Health Service (WAMHS) community advocacy and Mental Health Peer advocacy contracts all jointly commissioned with CCGs and expiring 31 March 2020. CCG Commissioners have indicated they would like the option for these services to become part of the integrated advocacy service from 1 April 2020. Details will be indicated within the procurement exercise to make bidders aware of this potential addition during the contract term.

2. Proposal Details

The proposal is that a joint commissioning/procurement exercise is undertaken with commissioners in East Sussex and Brighton & Hove on the basis of the following:

- 2.1 the lead provider offers Independent Mental Capacity Advocates (IMCA) across West Sussex, Brighton & Hove and East Sussex local authority areas.
- 2.2 the lead provider offers Independent Care Act Advocacy (ICAA) services across West Sussex and Brighton & Hove local authority areas.
- 2.3 Brighton & Hove City Council will be the lead Authority in undertaking the procurement.
- 2.4 The total funding for the current advocacy services in West Sussex is £358,500 wholly funded by WSCC.
- 2.5 Funding for an additional Paid Relevant Person's Representative has been agreed by the Director of Adult Operations in response to increased demand and lengthier waiting lists for this statutory service. The cost for an additional PRPR is divided between the three authorities proportionately based on the number of referrals to the service. The cost to WSCC is £13,500 pa.
- 2.6 The integrated advocacy service would be procured using a competitive tender process. Award would take place in December 2018 with contract mobilisation to start the service from 1 July 2019.
- 2.7 In addition to the advocacy services that will form part of this procurement exercise (2.1 and 2.2) there are three additional mental health advocacy services; Independent Mental Health Advocates (IMHA), Working Adults Mental Health Services (WAMHS) community advocacy and Mental Health Peer Mentoring. These are all contracted until 31 March 2020 and jointly funded by West Sussex County Council and the CCGs. The total value for these advocacy services in West Sussex is £292,929 (WSCC funded £33,618 and CCG funded £259,311).
- 2.8 It is proposed that the procurement documents will indicate that these three mental health advocacy services have the potential to become part of this integrated advocacy service from 1 April 2020. Full details of these services will be given in the tender documents and a decision will be taken by Mental Health Commissioners during 2019, whether to utilise this contract. In the meantime there will need to be a review to confirm whether these services need to be maintained. The potential procurement of the Mental Health advocacy services will be subject to a separate Cabinet Member decision in 2019.

FACTORS TAKEN INTO ACCOUNT

3. Consultation

- 3.1 The Cabinet Member for Children and Young People has been consulted regarding the proposals.

3.2 Internal stakeholders have been consulted with and are part of the WSCC Procurement Group. The Group consists of representatives from:

- Operations – Adults, Learning Disability, Mental Health, Children’s.
- Commissioning – All Age, CAMHS, Mental Health, Prevention, Learning Disability, Children’s
- CCGs – Mental Health commissioners
- Finance
- Procurement
- Legal
- Contracts

3.3 A stakeholder engagement event in March 2018, set up and led by Brighton & Hove City Council was attended by representation from West Sussex County Council.

The event was attended by local, regional and national providers of advocacy, including all the current service providers in West Sussex. Providers were asked for their perspective on the opportunities for pan Sussex work, providing a central point of access whilst retaining specialist provision, different models for delivery of services (single provider versus partnership models with a lead provider) and to consider whether advocates could provide more than one advocacy role.

The consensus was that a single point of access was desirable but the majority of providers, including those providing single advocacy services elsewhere in the country, reported it was very difficult for a single organisation to provide the breadth of advocacy required across all the protected characteristics, therefore partnerships between providers would need to be forged.

3.4 Feedback from service users on current advocacy services and examining best practice nationally¹ produced the following findings.

- a) The majority of people were very positive about advocacy provision and its impact on their quality of life. People from the LGBT and learning disabled communities particularly valued a specialist service whilst some other users did not want to be categorised by client group and would like a ‘one stop shop’. The lack of capacity, high thresholds and lack of awareness of advocacy were highlighted as barriers and people identified the need for a quick response to assess urgency and prevent crises.
- b) The majority of referrers were satisfied with advocacy services but experienced greater difficulty in accessing Care Act Advocacy and were unsure where to refer clients with multiple needs. There are also hand offs between organisations where people need more than one type of advocacy.

¹ Co-commissioning (Kent), Outcome based commissioning (Essex), The Advocacy Hub (Manchester)

- c) Engagement with people whose first language is not English, people with hearing impairments, older people, those on the autistic spectrum and parents with learning disabilities: The general consensus is that people want continuity of advocates, a responsive accessible service and advocates who have excellent knowledge of local services and processes.
- d) Older people expressed the need for advocacy for specific issues rather than a specific service for older people whereas the deaf participants were very clear they wanted specific deaf advocacy rather than a BSL interpreter alongside an advocate. Those people whose first language was not English would prefer a bilingual advocate to an interpreter and advocate. The autistic participants had clear examples of falling between the gaps in services and expressed a need for advocates who had expertise in autism and Asperger's.

4. Financial (revenue and capital) and Resource Implications

4.1 Revenue consequences of proposal

	Contract Year 1 2019/20 £m	Year 2 2020/21 £m	Year 3 2021/22 £m	Year 4 2022/23 £m
Revenue budget	.652	.652	.652	.652
Change from Proposal	.36	.36	.36	.36
Remaining budget	.292	.292	.292	.292
Annual cost of paying B&H for Procurement & Management	.0015	0	0	0
	.005	.005	.005	.005

4.2 Human Resources, IT and Assets Impact

- a) The tender process will be led and managed by Brighton & Hove City Council commissioners, procurement and legal teams closely with the West Sussex County Council commissioners, procurement and legal teams.
- b) West Sussex County Council has an internal procurement project team which includes finance, procurement, legal, commissioning, operations and contract colleagues; which meets on a regular basis and would feed into the procurement group leading the tender.
- c) Undertaking a joint integrated service will reduce duplication of services and reduce associated management costs thereby improving quality for service users and Council staff and offer one point of access for service users and referrers.

5. Legal Implications

6. Risk Assessment Implications and Mitigations

- 6.1 Risks relating to the preferred option for an integrated procurement exercise with Commissioners in Brighton & Hove City Council and East Sussex County Council are detailed below in Appendix 2.
- 6.2 Should approval for this procurement not be forthcoming WSCC would then need to undertake a stand-alone procurement for advocacy services, which while possible, would not lead to the potential benefits that being part of the pan-Sussex procurement would realise.
- 6.3 Should WSCC undertake a stand-alone procurement exercise, this would be run parallel to the procurement in Brighton & Hove which may impact on the numbers of providers willing or able to participate. The separate procurement for discretionary advocacy services is considered not to pose a threat to this procurement as the specialist discretionary services are provided by different providers.
- 6.4 Extensive legal, financial and procurement advice has been taken in relation to the procurement of these services. This advice has shaped the procurement model and financial structure of the services to mitigate any reputational risk to the Council.
- 6.5 In the event that the current incumbent providers are not awarded their existing business, it is anticipated that staff will be entitled to TUPE transfer to the new organisation. Sufficient time has been allowed in the procurement timetable to facilitate a smooth mobilisation period from contract award to contract start date.
- 6.6 One risk is that the tender process fails to provide bid/s which can be selected and thus deliver services. The risk is considered to be low because the current service providers have engaged in consultation events and have expressed interest in bidding. This risk will be mitigated by advertising widely on the County Council's website and by issuing an OJEU notice. (A Prior Information Notice has also been submitted to highlight that the opportunity may be coming up and to promote interest). The market for specialist providers of such services is of a reasonable size, well developed and competition is expected.
- 6.7 The financial risk is that the bids received are not affordable. This risk will be mitigated by indicating the financial envelope within the tender documents.
- 6.8 In any tender there is a risk of legal challenge. This will be mitigated through legal advice on the process and ensuring that all bidders are treated fairly and scored and evaluated in the same way.

7. Other Options Considered

There are a number of options that have been considered for the procurement of advocacy services from 1 July 2019. Appendix 2 details these and associated opportunities and risks for each.

8. Equality and Human Rights Assessment

- 8.1 Eligibility for the proposed services will include all customer groups and therefore will not have a negative impact on any group with protected characteristics.
- 8.2 The tender process will require bidders to demonstrate how they will ensure they deliver the service to meet the needs of all customers including those with protected characteristics.
- 8.3 Further details on consideration given to protected characteristics are set out at paragraph 3.4.

9. Social Value and Sustainability Assessment

- 8.1 Commissioning of the Integrated Advocacy service will make reference to County Council policy on social value and will take full account of the social, environmental and economic impacts of any decisions upon the local communities concerned.
- 8.2 The service has an inherent social value in that support is commissioned to enable customers to exert choice and control and maintain independence within their communities.
- 8.3 To mitigate any risk and to ensure a positive impact on the environmental wellbeing of the area, the service specification will require service providers to ensure that sustainability and the corporate priorities set within the Sustainability Strategy are embedded into service delivery and continuous service improvement. The County Council will engage with providers in relation to their carbon monitoring and reporting.
- 8.4 All of the service provision is delivered from within the county and as such supports local employment. Through the procurement, providers' approaches to recruitment, retention and workforce development will be evaluated to ensure an approach to employment which supports recruitment and incentivises retention.

10. Crime and Disorder Reduction Assessment

None

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Appendix 1 - Current advocacy contracts and demand in 17/18

Service	Provider	Annual Value £	No. of New Cases 2017/18	Funded by	End date	Commissioner
IMCA & DoLS	POhWER	£196,000 (WSCC Contribution)	950 cases	WSCC	30/6/19	WSCC Working Age Adults Commissioner Pan-Sussex Contract with WSCC, ESCC and BHCC. (Contract Lead is BHCC)
Independent Care Act Advocacy (ICAA)	seAp	£150,000	293 cases	WSCC	30/6/19	WSCC Working Age Adults Commissioner
TOTAL VALUE Contracts Ending 31.3.2019		£346,500				
IMHA	MIND - Brighton & Hove	£94,362	387 cases	87% CCGs 13% MH Pooled budget	31/3/20	WSCC MH Commissioners
WAMHS community advocacy	MIND - Brighton & Hove	£164,241	574 cases		31/3/20	WSCC MH Commissioners
Peer mentoring MH	MIND - Brighton & Hove	£34,326	40 cases	Horsham & Mid Sussex CCG	31/3/20	WSCC MH Commissioners
TOTAL VALUE Contracts Ending 31.3.2020		£292,929				

Appendix 2 – Procurement Options Appraisal

Option	Opportunities	Risks
A. West Sussex Fully Integrated Model procurement to include all 5 advocacy services	<ul style="list-style-type: none"> Economies of scale across 5 services One front door for customers & staff No need to transfer between advocacy services Consistent triage Greater opportunity for local specialist providers, enhancing social value Tailor made service for West Sussex Greater control of service by having consistent units of measurement & monitoring 	<ul style="list-style-type: none"> Pan Sussex economies of scale area not realised. Although management costs of provider may partly negate. Not able to benefit from flexible capacity of wider contract

	<ul style="list-style-type: none"> • Economies from reduced contract monitoring • Investment in and development of market capacity locally 	
<p>B. Joint commissioning / procurement with East Sussex County Council (ESCC) and Brighton & Hove City Council (BHCC)</p> <p>Lead provider directly provides IMCA across East & West Sussex and Brighton & Hove AND ICAA services across West Sussex and Brighton & Hove.</p> <p>The Lead provider to either directly provide or sub-contract with specialist community advocacy organisations to provide IMHA and Specialist Community Advocacy services.</p>	<ul style="list-style-type: none"> • IMCA & ICAA are closely aligned in nature and suit an integrated model – supported by Care Act guidance. • Fewer transfers between services • Fewer points of access than current model • Greater control of service by having consistent units of measurement & monitoring • Economies of scale for 2 services pan-Sussex 	<ul style="list-style-type: none"> • No guarantee of single point of access • Greater risk to valued West Sussex providers in procurement • Economies of scale partly mitigated by increased management costs of provider
<p>C. West Sussex Fully Integrated Model plus align timelines with East Sussex & B&H</p> <p>where appropriate to pave way for potential pan Sussex model once integrated model is embedded in West Sussex.</p>	<ul style="list-style-type: none"> • Prioritise needs of West Sussex- all the benefits of Option A with the opportunity to benefit from Option B at a later date • Allows establishment of integrated model 	<ul style="list-style-type: none"> • Longer time taken to achieve maximum economies of scale, however, this approach would support market to scale up.
<p>D. Status Quo</p> <p>Retain 5 separate Advocacy contracts in West Sussex</p>	<ul style="list-style-type: none"> • No change required. 	<ul style="list-style-type: none"> • 5 procurements • 5 x contract management • Inconsistent units of measurement • 5 access points for customers & staff • Inefficient use of resources

		<ul style="list-style-type: none">• Opportunities to develop market not realised.
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