

PART 1 - PUBLIC

Decision Maker: CARE SERVICES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Date: 11 November 2014

Decision Type: Non-Urgent Executive Key

Title: GATEWAY REPORT ON SPECIALIST ADVOCACY AND ADVOCACY SERVICES FOR ADULTS

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Ward: Boroughwide

1. Reason for report

This report sets out options and recommendations for the future delivery of advocacy support services for adults and older people with mental health, older person, people with physical and sensory disabilities, learning disabilities and general advocacy in the borough.

2. **RECOMMENDATION(S)**

The Portfolio Holder is asked:

- 2.1 To approve the recommendation to tender the IMCA and the IMHA services for a three year contract from April 2015 with the potential to extend for a further two years.
- 2.2 To agree the four borough commissioning approach to the delivery of the IMCA service from April 2015 with the Council leading on the procurement on behalf of the consortium of Bromley, Bexley, Lewisham and Greenwich boroughs.
- 2.3 To agree the tendering of a new advocacy service based on a new specification to meet the requirements of the Care Act and starting in October 2015 .
- 2.4 To agree an extension of one year from April 2015 for NHS Advocacy Contract with VOICEABILITY in the consortium of 27 London Boroughs.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Supporting Independence.
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Financial

1. Cost of proposal: Estimated cost per annum
IMCA Service £25,620 per annum
IMHA Service £132,300 per annum
VoiceAbility £52,010 per annum
NHS Advocacy £70,440 per annum
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: Independent Advocacy (7580053818)/Mental Capacity Act (813105 3352) (758004 3350) (758004 3354) (758900 3427)
 4. Total current budget for this head: £280,370
 5. Source of funding: Local Reform and Community Voices Grant/Core Funding
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Staff

1. Number of staff (current and additional): Staff employed by providers.
 2. If from existing staff resources, number of staff hours: Regular contract monitoring takes place - estimated annual hours 36.
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Over 100 service users at any one time access the 4 advocacy services across the borough
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 Currently there are four contracts for advocacy services for people over 18:

- Independent Mental Health Advocacy (Specialist and General): provided by RETHINK
- Independent Mental Capacity Advocacy provided by POHWER
- Advocacy for older people, and those with a physical disability or sensory impairment or learning disability clients who are eligible for social care services: provided by VOICEABILITY
- NHS Advocacy Contract provided by VOICEABILITY

These contracts provide a range of services detailed below with the current and proposed contract arrangements.

3.2 **Independent Mental Health Advocacy Service (IMHA):** This advocacy service provides two strands of service to people with mental ill health, the Independent Mental Health Advocacy service and more general advocacy for people with mental ill health. The first is a statutory requirement placing the responsibility to ensure provision of this service on Local Authorities under the Mental Health Act 1983. This responsibility transferred from NHS in 2012 with a transfer of some funding through the Local Reform & Community Voices Grant. This service has specially trained advocates who work with qualifying patients to support them to understand the legal provisions to which they are subject under the Mental Health Act. Qualifying patients are those who are:

- detained under provisions (other than emergency provisions) of the MHA 1983 (even if they are currently on leave of absence from hospitals)
- conditionally discharged restricted patients
- subject to Guardianship under the Act or on supervised community treatment

In total the service worked with 186 clients in 2013/14, 94 under IMHA and 92 others, under the general advocacy provision, across a range of issues including difficulties with staff attitudes/behaviour, medication, access to services including housing, discharge/leave from hospital.

The contract for Independent Mental Health Advocacy (IMHA) was awarded to RETHINK in April 2010 for 3 years with option to extend for a further 2 years which has been enacted to terminate in March 2015.

It is proposed that this service be tendered for a further three years with the option to extend for a further 2 years subject to meeting required performance as this is a statutory service with a general advocacy service which meets the requirements of the Care Act for this group of people. The advantage of commissioning the two strands of service under one contract is improved quality of service because of the skills and knowledge required of the advocate and a reduced cost due to the reduction of management overheads. It is envisaged this would be within the current cost envelope of £132,300.

3.3 **Independent Mental Capacity Advocacy (IMCA):** the service provides specialist Independent Mental Capacity Advocacy to people who lack the mental capacity to make certain decisions and who have no known relatives or close families to act for them. The service is a statutory one detailed in the Mental Capacity Act 2005 which must operate

independently of the person(s) responsible for making the decision in relation to the vulnerable person.

In 2013/14 the service worked with 37 people who were referred on the type of issues detailed in the table below. The majority of these were around change of accommodation with most being resolved within eight weeks.

Issue Type	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date
Care Review				12%	4%
Change of Accommodation	97%	82%	15%	35%	64%
Deprivation of Liberty Safeguards			1%		0%
Paid Person's Rep			25%		4%
Safeguarding		18%		31%	11%
Serious Medical Treatment	3%		59%	22%	17%

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Year to date	This
Bexley	5	10	10	8	33	
Bromley	6	7	12	12	37	
Greenwich	10	14	10	7	41	
Lewisham	5	13	9	15	42	
Total:	26	44	41	42	153	

activity is similar to the activity of neighbouring boroughs as shown below.

The IMCA service is currently provided by POhWER who also provide, as part of this contract, training to staff in Bromley. The contract was awarded in April 2010 for 3 years with option to extend for a further 2 years which has been enacted. The contract is a four borough contract currently procured by Bexley on behalf of the boroughs of Lewisham, Greenwich, and Bromley. Historically since the advent of the Mental Capacity Act in 2005 the boroughs of Bexley, Greenwich and Bromley have jointly commissioned for the delivery of the service. Initially Greenwich Council took the lead on the procurement with agreements between the partner boroughs. In the 2010 Lewisham Council joined the consortium with Bexley Council taking the procurement lead. With the next round of commissioning, it is Bromley Councils turn to lead on behalf of the consortium boroughs. There has also been an approach to the consortium from Southwark to join. This approach to commissioning streamlines contract management and procurement costs as well as reducing the actual contract costs to the individual boroughs in the consortium. Permission is therefore sought for Bromley Council to accept the role of the leading authority to procure on behalf of the group for the contract starting in April 2015 and for the agreements with consortium boroughs to be issued by Bromley. It should be noted that individual boroughs pay the provider directly for their use of the service so there is no cross charging required. The contract would be for three years plus two years delivered within the current financial envelope of £25,620.

3.4 **Advocacy Service (Adults):** the adult advocacy service enables people to take more responsibility by having greater choice and control over the decisions which affect their lives. It provides a service to people who are:

- FACS eligible
- have a level of disability which impairs their ability to advocate on their own behalf
- have complex needs and are experiencing situations which they are unable to cope with without appropriate support and/or:
- have no known relatives or friends able to speak for them or when relatives views are in conflict with the service user views

The advocacy support is not long term, sessions may occur for not more than 6 months and limited to a maximum of 12 hours for complex cases. The service worked with 248 people during 2013/14.

The advocacy contract for older people, people with a physical disability, sensory impairment or learning disability was awarded in October 2012 until October 2015. Currently this is a non-statutory service but from April 2015 the Care Act places a statutory responsibility on Local Authorities to provide advocacy services for people who lack the capacity to advocate for themselves and who have no friends or family to do this. This excludes the decisions that would require an IMCA to be involved but are about support to participate in assessments, support planning or safeguarding enquiries. Therefore existing advocacy services contracts will require changes to meet the duties of the Care Act as outlined in the national guidance published on 23rd October 2014.

It is proposed that a new specification be developed and tendered to procure an advocacy service starting in October 2015 to meet the requirements of the Care Act.

3.5 **NHS Advocacy Contract:** This is a statutory obligation passed to the Council via the Health and Social Care Act 2012. The service is provided to people who require advocacy to pursue complaints about NHS Health Services. As far as possible this is delivered via a website that signposts complainants through the processes. Where more help is required the complainant can also access individual assistance via the telephone or in person. Access to the website is important as this is a most effective way of meeting needs.

The complaints advocacy service is being used, although the demand has not been as high as forecast by the previous provider. In 13/14 there were 40 Bromley service users and there has been a small monthly increase in these numbers so far in 14/15. Overall it will be safe to assume that the Council can negotiate a reduction in the budget allocated to the service.

In order to meet the requirements the Council worked with a consortium of 27 other London boroughs and entered into a 2 year contract with Voiceability which commenced in April 2013. The contract expires in March 2015. It is proposed that the contract be extended for a year. There are compelling reasons to extend this contract for one further year in order that the Council can come to a clear conclusion about the overall advocacy services it provides following the introduction of the Care Act. The London consortium is currently consulting boroughs about their future intentions, but it is likely to extend the framework from which our contract has been awarded.

The budget for the service is £70,440 per annum paid from the Local Reform and Community Voices Grant. It is uncertain yet whether this grant will be paid separately from 2015/16, or whether it will be included in the revenue support grant.

4. FINANCIAL IMPLICATIONS

- 4.1 It is proposed that the services will continue with the same funding level, where services are being tendered we will seek to make savings if possible.
- 4.2 The current budget is laid out in the table below. It should be noted that NHS Advocacy and £64,000 of the IMHA contract are funded through the Local Reform & Community Voices Grant the funding position of which has not been clarified with the Department of Health for 2015/16. A break clause is included in the contract as standard, if the funding situation changes the contract can be terminated.

Contract	Cost of Proposal
Independent Mental Health Advocacy IMHA	£132,300
Independent Mental Capacity Advocacy IMCA	£25,620
Older Person, Learning Disability Physical & Sensory Disability Advocacy VoiceAbility	£52,010
NHS Advocacy	£70,440
Total Cost	£280,370

- 4.3 Costs of the IMCA, Voiceability and NHS Advocacy will vary depending on overall take up of the services. Current budget projections are predicting an overall underspend in these areas.

5. LEGAL IMPLICATIONS

- 5.1 There are statutory regulations and requirements for the delivery of the IMCA, IMHA and Advocacy services. If appropriate services and safeguards are not put in place this could expose the borough to a legal challenge.
- 5.2 The services that are the subject of this report are classified as Part B services in Schedule 3 to the Public Contracts Regulations 2006 as amended which means that they are not subject to the full competition requirements of those provisions. However, the procurement processes required will be undertaken in accordance with the Council's Contract Procedure Rules and best practice guidance.

Non-Applicable Sections:	Personnel Implications, Policy implications
Background Documents: (Access via Contact Officer)	ACS10000 report to Executive January 13 th 2010.