

Part 1 – Public

Decision Maker: Executive
With pre-decision scrutiny from Adult Care & Health Policy and
Development Scrutiny Committee on 22nd November 2022

Date: 30th November 2022

Decision Type: Non-Urgent Executive Key

Title: CONTRACT AWARD: ADVOCACY SERVICES

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Chief Officer: Kim Carey, Director of Adult Social Care

Ward: All

1. REASON FOR REPORT

- 1.1 On 29th June 2022, Executive approved the re-tender of the Advocacy services to enable the commencement of a new contract from 1st April 2023. The current contract is delivered through Advocacy for All with an estimated annual value of £286k.
- 1.2 This report sets out the results of the tendering process for the provision of the advocacy services and seeks Executive approval to award the contract. The report should be read in conjunction with the accompanying Part 2 Report.
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2. RECOMMENDATION(S)

- 2.1 Adult Care and Health PDS is asked to note and comment on the contents of the report.
- 2.2 Executive is recommended to:
- Award the contract for the provision of the Advocacy services as detailed in the accompanying Part 2 Report. The proposed contract will commence on 1st April 2023 for a five-year period with the option to extend for up to a further two years.
 - Delegate to the Director of Adult Services, in consultation with the Portfolio Holder for Adult Care & Health services, the Assistant Director of Governance & Contracts, the Director of Finance and the Director of Corporate Services, authorisation to vary the contract to meet statutory demands and exercise the extension period for up to two years.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Advocacy service is a single point of access that provides support for individuals to improve their ability to self-advocate and voice and express their views and wishes in a variety of circumstances; or where this is not possible, for their interests to be presented on their behalf in these contexts, such as their care plan. An Equality Impact Assessment has been undertaken and it concluded that it didn't have any negative impact on any groups as it's accessible to all.
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Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority:
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence, and making choices.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: Please refer to Part 2 Report.
 2. Ongoing costs: Please refer to Part 2 Report.
 3. Budget head/performance centre: Information and Early Intervention
 4. Total current budget for this head: Please refer to Part 2 Report.
 5. Source of funding: Existing revenue budget
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement to provide an Advocacy Service under the Care Act 2014, Care and Support (Independent Advocacy Support) Regulations 2014, Mental Health Act 1983 (Section 2 and 3), Mental Health Act 2007 (Section 30), The Mental Capacity Act 2005 (Section 35), The Children's Act 1989 (Section 26A), The Children's Act 2004 (Section 53) and The Health and Social Care Act 2012.
 2. Call-in: Applicable
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Procurement

1. Summary of Procurement Implications: The Procurement was undertaken in compliance with the requirements of the Public Contracts Regulations 2015.
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Property

1. Summary of Property Implications: N/A
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Please refer to heading 6.
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Customer Impact

1. Estimated number of users or customers (current and projected): 3022 (2021/22)
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The existing Advocacy services contract has been in place with Advocacy for All since 1 April 2018. There were no further options to extend the contract so a procurement exercise has been undertaken following Executive approval in June 22 (report no. ACH22-017).
- 3.2 A procurement process has taken place over the last few months and this report details the outcome of the tender process.

4. DESCRIPTION OF SERVICE AND SUMMARY OF THE BUSINESS CASE

- 4.1 The Advocacy service is a single point of access that includes Care Act Advocacy, Learning Disabilities Advocacy, Independent Mental Health Advocacy, General Mental Health Advocacy, Independent Mental Capacity Advocacy, Independent Health Complaints Advocacy and Children and Young Person's Advocacy.
- 4.2 The single point of access benefits service users with more than one Advocacy need for those whose advocacy needs change over time. It provides a seamless, accessible service where different forms of advocacy are delivered in a holistic way centred on the Service Users' needs and requirements.
- 4.3 The Advocacy Service supports individuals who are sometimes "seldom heard" to express their views and wishes in a variety of circumstances so that their voices are heard. Where this is not possible an advocate is assigned to represent and present peoples wishes on their behalf. The service includes the following outcomes:
- Empowering service users by giving them a voice so they will not have to struggle to be heard.
 - Equipping service users with the support they need to voice their concerns to be able to Self-Advocate where possible.
 - Empowering service users to be independent to make informed decisions regarding the reasons they required Advocacy support
 - Service users will be aware of their rights to make a complaint and have the skills to do so.
 - Service users' voices will be heard or represented during meetings or processes that involve decisions about them.
 - In addition, the Contractor will establish co-produced outcomes with each service user specific to their individual needs
- 4.4 The Contract specification set out the requirements upon providers and the intended outcomes for users of the service. Contract performance and service users' outcomes will be robustly measured by the Contract Compliance Team in conjunction with Commissioners through a combination of regular QAF inspections, Key Performance Indicators (KPIs) and Outcome returns from the Provider. The KPIs are outlined in Appendix 1.

5. CONTRACT AWARD RECOMMENDATION

- 5.1 **Recommended Provider(s): Please refer to Part 2 Report.**
- 5.2 **Estimated Contract Value (annual and whole life): Please refer to Part 2 Report.**
- 5.3 **Other Associated Costs:** Not applicable
- 5.4 **Proposed Contract Period:** The contract will be for five years starting 1st April 2023 with the option to extend for up to two years.

Tender process:

- 5.5 The tender process was undertaken in accordance with the recommendations set out in the Gateway Report approved by Executive 29 June 2022.
- 5.6 The tender was undertaken electronically using the Pro-Contract portal with bidders being required to submit their bids in accordance with the Public Contracts Regulations 2015.
- 5.7 The results of the evaluation process are detailed in Appendix 1 in Part 2 of the report.
- 5.8 An invitation to an open tender process was conducted via the London Tenders Portal, ProContract. A total of 24 providers registered an Expression of Interest (EOI) during the tender period, however only 3 compliant bids were submitted.
- 5.9 Seventeen providers didn't respond, and four providers opted out. The reasons given ranged from 'unable to be competitive' to "Cannot supply in this location" and "Insufficient resources at this time".
- 5.10 The tender was evaluated based on responses to two questions from stage 1 and eight questions from Stage 2 in accordance with the Public Contract Regulations 2015.
- 5.11 The Provider 'Quality' submissions were scored by an Evaluation Panel using the standard LB Bromley scoring Matrix. Each question was marked out of 10.
- 5.12 Evaluation of the bids were undertaken using the Council's standard 40% quality and 60% price split based on the weightings table below. The results were then fed into the evaluation matrix based on the Chartered Institute of Public Finance & Accountancy (CIPFA) Evaluation Model.

Criteria	Weightings
Financial Resources & Contract Affordability	5%
General Data Protection Regulations (GDPR) and Information Governance	5%
Implementation/Mobilisation	10%
Management, Operation and Delivery of Service: Achieving Outcomes Service Delivery	10% 30%

Contract Management Staffing and Structures	10% 20%
Social Value	10%

5.13 The contract will be monitored through quarterly contract management meetings to ensure compliance with the terms of the contract and specification. This includes ensuring the Key Performance Indicators KPIs (listed in report no. ACH22-017 and in Appendix 1 in this report) are regularly reviewed to ensure they are fit for purpose.

6. SOCIAL VALUE, CARBON REDUCTION AND LOCAL / NATIONAL PRIORITIES

6.1 The service specification has a dedicated section on Social Value and consequently the service provider has demonstrated that they will meet the required social value outcomes, which includes delivering local employment opportunities to ethnical buying of resources and car share, promoting up-cycling instead of buying new. The provider is also a recruiter of people with disabilities and those identifying as having a mental illness (25% of their workforce). They will also provide placements for nurses and social workers.

7. TRANSFORMATION/POLICY IMPLICATIONS

7.1 The Council is legally obligated to deliver an Advocacy Service in accordance with the Care Act 2014, Care and Support (Independent Advocacy Support) Regulations 2014, Mental Health Act 1983 (Section 2 and 3), Mental Health Act 2007 (Section 30), The Mental Capacity Act 2005 (Section 35), The Children’s Act 1989 (Section 26A), The Children’s Act 2004 (Section 53) and The Health and Social Care Act 2012.

7.2 The procurement of adults, children’s and health advocacy via the exposure of the service opportunity to competitive tender supports the Corporate Strategy ambition number 5: ‘To manage our resources well, providing value for money, and efficient and effective services for Bromley’s residents’.

7.3 The service also supports the aims of Ambition 1 and 2 of the Corporate Strategy:

- For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
- For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence, and making choices.

8. IT AND GDPR CONSIDERATIONS

8.1 The Council takes a risk-based approach when considering the contracting service providers and will undertake a data protection impact assessment prior to contract commencement.

8.2 The service provider is instructed to provide services as a joint controller in line with GDPR Article 26 and UK Data Protection Act Article 58. Both parties must process Council data in a secure manner giving consideration to appropriate technical and organisational Measures to comply with, but not exclusively.

- UK Data Protection Act 2018
- UK Data Protection Act – Part 3 Law Enforcement Processing
- General Data Protection Regulation 2016
- Freedom of Information Act 2000
- Re-use of Public Sector Information Regulations 2005
- Local Government Act 2000
- Computer misuse Act 1990
- Police and Criminal Evidence Act 1984
- Privacy and electronic Communications Regulations (PECR) 2003

8.3 All gathering, storing and use of information for the purposes of provisioning, and delivery of advocacy services will be conducted in line with the principles of current UK Data Protection law and specifically Article 32, General Data Protection Regulation 2016

8.4 The Council shall ensure that all information processed for purposes of provisioning, and delivery of advocacy services is necessary and proportionate to the activity.

8.5 The Council shall ensure that the awarded contract has adequate and proportionate Information Management and Data protection clauses that cover:

- Breach notification and recovery
- Handling the right so the data subject
- Information lifecycle management including retention and disposal
- A clear exit strategy, where necessary, for recovery or transfer of information upon termination or end of the contract.

9. STRATEGIC PROPERTY CONSIDERATIONS

9.1 N/A

10. PROCUREMENT CONSIDERATIONS

10.1 This report seeks to award a contract for the provision of Advocacy Services to the Provider detailed in the Part 2 Report. The contract will commence on 1st April 2023 for a period of five (5) years expiring on 31st March 2028, with the option to extend for a further period of up to two (2) years. The estimated annual and whole life values of the Contract are detailed in the Part 2 Report.

10.2 This is a Service contract and is covered by Schedule 2 of the Public Contract Regulations 2015, and thus the procurement was undertaken in accordance with the 'Light Touch Regime' (LTR) of these Regulations. A summary of the Consensus scores against the quality criteria are set out in Appendix 1 of the Part 2 report.

10.3 The tender process was carried out in line with the requirements of the Public Contract Regulations 2015, and the Council's Contract Procedure rule 8.2.1.

10.4 The Council's requirements for authorising an award of contract are covered in Contract Procedure Rule 16. For a Contract of the value set out in the Part 2 report, the Approval of Executive, following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director of Governance & Contracts, the Director of Corporate Services and the Director of Finance.

10.5 In accordance with Contract Procedure Rule 2.1.2, Officers must take all necessary professional advice.

- 10.6 Following the decision, a Find A Tender Notice will be issued, and as the Contract value is over £25,000, an award notice will be published on Contracts Finder.
- 10.7 A mandatory Standstill Period will be observed in accordance with the Public Contract Regulations 2015.
- 10.8 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their current content.

11. FINANCIAL CONSIDERATIONS

- 11.1 Financial implications are detailed in the Part 2 report.

12. PERSONNEL CONSIDERATIONS

- 12.1 N/A

13. LEGAL CONSIDERATIONS

- 13.1 This report requests Members to approve the award of contract as detailed in the Part 2 report. These advocacy services are legally required to be provided by the Council as is detailed in section 7 of this report.
- 13.2 As the value of this contract is in excess of £1mn then the award of contract must be approved by the Executive in accordance with the Council's Contract Procedure Rules (CPR's). This report also requests any future contract extension or variation to be delegated to the Chief Officer in consultation with the Portfolio Holder. The delegation of authority to the Chief Officer to extend or vary accords with the process established in CPR 23.6.4.
- 13.3 This is a public services Contract within the meaning of the Public Contracts Regulations 2015 as the value of the Contract is above the relevant threshold and falls within the services outlined in Schedule 3 of the Public Contracts Regulations (PCR's) 2015. Officers have therefore followed the 'Light Touch Regime' during the procurement process.
- 13.4 Legal Services have been instructed in this matter and will continue to assist officers towards contract completion should this contract be awarded by the Executive.

Non-Applicable Headings:	9 and 12
Background Documents: (Access via Contact Officer)	Proceed to Procurement Report – The Advocacy Services Contract (report no. ACH22-017). CONTRACT AWARD: ADVOCACY SERVICES – Part 2 Appendix 1 – KEY PERFORANCE INDICATORS authorised in Proceed to Procurement Report – The Advocacy Services Contract (report no. ACH22-017).

Appendix 1

PROPOSED NEW ADVOCACY SERVICE KEY PERFORMANCE INDICATORS

Service Area	Minimum Target (Annually/Quarterly)
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Care Act Advocacy

No. of new Care Act Referrals in Qtr.	150 Annually
No. of Active Care Act cases in Qtr.	

Independent Mental Capacity (IMCA & DoLs) Advocacy

No of new IMCA - referrals in Qtr.	100 Quarterly
No of active (IMCA) cases in Qtr.	
No of new Paid Relevant Person's Representative (RPR) referrals in Qtr.	
No of active cases (RPR) cases in Qtr.	

IMHA Advocacy

Independent Mental Health Advocacy - IMHA	90 referrals Quarterly
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CMHA Advocacy

Community Mental Health Advocacy (GENERAL)	NEW KPI 60 referrals Quarterly
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Children and Young People Advocacy (CYP)

Children & Young People (CYP)	NEW KPI 350 Annually
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Learning Disability Advocacy

Learning Disabilities (Advocacy)	100 Annually
Learning Disabilities (Meetings)	70 Annually

IHCAS Advocacy

Independent Health Complaint Advocacy IHCAS	70 referrals Annually
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