



Cabinet
16 June 2014

**Report from the Strategic Director of
Adult Social Services**

For Action

Wards affected:
ALL

Authority to award an Advocacy Services Contract

1.0 Summary

In accordance with Contract Standing Orders 88 this report seeks Cabinet authority to award a 2 + 1 year contract for Advocacy Services for Safeguarding, Mental Health, Learning Disabilities, Older People with Physical Disabilities and Younger People with Physical Disabilities. The report summarises the process undertaken in tendering this contract and following completion of the evaluation of the tender, recommends to whom the contract should be awarded.

2.0 Recommendations

- 2.1 That Members award a contract to Voiceability Limited as lead organisation for a consortium for Advocacy Services for Safeguarding Mental Health, Learning Disabilities, Older People with Physical Disabilities and Younger People with Physical Disabilities for a term of 2 years with a possible extension of 1 year, starting on 1 July 2014.
- 2.2 That Members note the reasons (detailed in paragraph 3.7) for the further extension to the existing contracts from their current expiry date of 31st May 2014 to the commencement date of the contract detailed in Recommendation 2.1 and note the legal advice (detailed in paragraph 5.3) as to the the use of delegated powers to effect such extension.

3.0 Detail

Background

- 3.1 Adult Social Care is committed to providing an independent and high quality Advocacy service that works in partnership with service users and helps them to access the support that other people already access to lead more independent and inclusive lives and to be involved in decisions about their future.
- 3.2 The service, which is currently delivered through four separate contracts, allows the most vulnerable people in Brent to have control over the care and support and play an important part in helping them make choices that might otherwise be made by other people.
- 3.3 The new contract will ensure the client groups set out below continue to have a say in their own lives. It will also support them to speak up for themselves and, where appropriate, provide them a representative to ensure they maintain or achieve their rights as a citizen. The client groups are:
- all Safeguarding clients (SG) to ensure Health Protection,
 - Older People with Physical Disabilities (OPPD),
 - Young People with Physical Disabilities, aged 14 to 25 (YPPD),
 - Adults with Mental Health needs (MH), and;
 - Adults with a Learning Disabilities (LD).
- 3.4 More specifically, the client groups will receive crisis advocacy (for example when an advocate is likely to support someone at a benefit tribunal, or to assist someone who has bailiffs coming round or who has been threatened with eviction), self advocacy (where individuals are made aware of their rights and responsibilities allowing them to speak-up for their rights, and make choices and decisions that affect their lives), and citizen advocacy (where trained volunteers offer information and support their clients with back-up and supervision from an advocacy co-ordinator).
- 3.5 Through the single contract the service will be developed to ensure:
- the needs of the The Care Act 2014 (the “Care Act”), Clause 67-68, which 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, are met by April 2015;
 - the establishment of an independent, confidential, high quality professional advocacy service that is independent of those commissioned or provided by health or social care services;
 - provision of one to one support that meets the needs of the specified users including their ability, disability, race, culture, sexuality, age, gender and treat them with respect, courtesy and dignity;
 - support for people to identify and represent their own concerns directly to all relevant bodies. Self advocacy is the preferred option and the service should aim to support this wherever possible;
 - raised awareness to the providers and commissioners about particular issues faced by users of the independent professional advocacy service, including the concerns of specific users who might be finding it difficult to engage with services and

- the provision of information on local services and signposting them to other services when these are more appropriate for advocacy service users.

The tender process

- 3.6 In advance of the existing contract end dates the Executive, at its 9th December 2013 meeting, approved the procurement of a new 2+1 year Advocacy contract which would seek to select a sole provider with or without sub-contracting arrangements or a lead consortium member to deliver Advocacy services.
- 3.7 In accordance with the 9th December 2013 Executive report, expressions of interest were requested from interested parties. The 23 parties that submitted an expression of interest are listed within Appendix B. These parties then received the Invitation to Tender. One consortium bid was received, however, it failed a number of mandatory assessments (a number of essential documents were not submitted by the consortium), which meant that the procurement process had to be started again and created the delay which has led to the need for a further extension of the current contracts.
- 3.8 The new procurement followed the same single stage open tender process and was re-advertised on the Council's website and the local press. Following the issue of the Invitation to Tender, one tender response was received on time from Voiceability Limited as the lead consortium organisation with Brent Mencap and Age UK Brent as its members. All three organisations had individually expressed an interest but decided to bid together as a consortium.
- 3.9 A panel consisting of representation from Adult Social Services together with input from Finance, Health and Safety, Procurement and Service Users was established to undertake the evaluation of the single tender response in accordance with the evaluation methodology issued within the Invitation to Tender (ITT) pack.

The evaluation process

- 3.10 The evaluation process consisted of the following stages:
- Stage 1 - Preliminary compliance checks (for all consortium members)
 Stage 2 - Scoring of bidders answers to Method Statement and Cost questions (lead consortium member only)
- 3.11 All consortium members passed Stage 1, meeting the Council's standard financial, technical and organisational requirements. Stage 2 scored answers were evaluated using the evaluation criteria and weightings approved by the Executive on 9th December 2013. The score parameters shown in table 1 below were used to evaluate the quality criteria:

Assessment	Score
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Assessment	Score
Deficient – Response to the question significantly deficient or no response received.	0
Limited – Limited information provided, or a response that is inadequate or only partially addresses the question.	1
Acceptable - An acceptable response in terms of the level of detail, accuracy and relevance.	2
Comprehensive – A comprehensive response in terms of detail and relevance.	3
Superior – As Comprehensive but to a significantly better degree and demonstrating best practice.	4

- 3.12 The quality score consisted of 50% of the evaluation weighting. The consortium lead received a total panel score of 36.8%. No individual score score was less than 1.
- 3.13 With only one tender response the proportional scoring could not be applied to the costs where the lowest bid would have received the highest score out of the 50% evaluation weighting. The tender was however £4281 less than the combined contract price for the four existing contracts.
- 3.14 Given that Officers have no concerns as to the quality aspects of the tender received and that the tender price is considered reasonable, Officers recommend the award of the Contract to Voiceability Limited as lead organisation of a consortium consisting of itself, Brent Mencap and Age UK Brent. Subject to Cabinet approval, Officers would intend to proceed with award as soon as possible with the contract to commence on 1 July 2014.

Benefits

- 3.15 As stated in paragraph 3.5, under the needs of the Care Act, from April 2015 local authorities will have a duty to provide independent advocacy services. In particular these should be locally available, involve service users in key processes, make information available to all and signpost people to other sources of advice. The new contract supports the implementation of this duty and brings with it the following benefits:
- The service will be independent of those commissioned or provided by health or social care services as well as being confidential and of a high quality.
 - As a local provider, the contractor (and it's consortia members) are best placed to provide Advocacy local services and signposting them to others, once again locally, when these are more appropriate.

- One to one support, that meets the individual needs of the service users with respect, courtesy and dignity provided. The support includes consideration of service user's ability, disability, race, culture, sexuality, age and gender.
- Individuals will be supported to identify and represent their own concerns directly to all relevant bodies. Self advocacy is the preferred option and the service will aim to support this wherever possible.
- It will provide short term, issue based and 'crisis' advocacy when significant decisions are needed urgently, for example in Safeguarding Adult cases.
- Awareness about particular issues faced by users of the independent professional advocacy service, including the concerns of specific users who might be finding it difficult to engage with services, will be effectively managed by the provider and commissioner.

3.16 Contract administration will be reduced by moving to a single agreement and service access will become more simplified and consistent.

Existing Contracts

3.17 Members were advised in the report to the Executive of 9th December 2013 that existing contracts were to be extended to 1 June 2014 at a cost not exceeding £29,054. In view of the issue of non-compliance detailed in paragraph 3.7 and the consequent delay to the procurement process, it has been necessary for the Strategic Director of Adults to exercise delegated powers to extend existing contracts beyond 1 June 2014 to 1 July 2014 at a cost not exceeding £6000 to ensure the expiry of existing contracts does not occur before the commencement of the new contract.

4.0 Financial Implications

4.1 It is anticipated that usage during the initial months of the contract will be limited due to the contract being embedded within the service. This reduced initial take up will allow the budget to fund the marginal residual costs of the current Advocacy Contract extensions referenced to within paragraph 3.7.

4.2 The proposed 3 year contract cost projection was £395,700 (£131,900 per annum) The tender price is £391,419 representing a £4281 reduction over the life of the contract.

4.3 The existing Adults annual Advocacy budget of £131,900 (MC50) will fund the contract over the next three years.

4.4 In order to ensure best value throughout the life of the contracts the fees will be paid on a call off basis, ie only those hours used will be paid for, and this will be carefully monitored through the contract management process.

- 4.5 The usage of this service could change due to the implementation of the Care Act, and due to the call off basis of the contract there is a risk of spending more than the agreed contract value. There is currently uncertainty on the increase in demand for advocacy due to the implementation of the Care Act.
- 4.6 However, the contract costs will be monitored closely as the Care Act progresses, and this risk will be managed by the department through the Care Act Implementation project which is monitoring all of the additional costs and pressures created by the Care Act. The department will seek to take actions to mitigate additional costs, should they materialise, so that they are contained within the overall budget envelope. For example, through the ongoing contract management of this contract the department will ensure this service is focused on providing advocacy, as defined in the specification, and there is no displacement from other related services.

5.0 Legal Implications

- 5.1 The estimated value of the contract over its term (including possible extensions) is in excess of £250k. As such the contract is a High Value contract for the purposes of Council Contract Standing Orders and Financial Regulations and thus Cabinet authority is required to award the contract.
- 5.2 The estimated value of the contract is also in excess of the EU threshold for Services under the Public Contracts Regulations 2006 (the “EU Regulations”). Advocacy services are however classed as Part B services and thus are subject only to partial application of the EU Regulations, including:
- (i). Non-discrimination in the technical specification.
 - (ii). Notification of the contract award to the EU Publications Office.

The contract is not therefore subject to, for example, a requirement for a standstill period to be observed.

- 5.3 As indicated in paragraph 3.17, it has been necessary to further extend the existing contracts from 1 June 2014 to 1 July 2014 pending the decision of the Cabinet with regard to the award of the contract. This short extension of the contracts has been effected by the Strategic Director of Adults using powers delegated to relevant Officers pursuant to paragraph 3 b) of the table at paragraph 2.5 of Part 4 of the Constitution. Subject to the decision of the Cabinet, Officers intend to proceed to contract. Officers will not however be able to contract until the expiry of any call-in period following the Cabinet meeting.
- 5.4 As one of the existing providers has indicated that none of its staff will transfer pursuant to the Transfer of Employment (Protection of Employment) Regulations 2006 (“TUPE”) and other existing providers are members of the consortium led by Voiceability Limited, there are no implications relating to TUPE.

6.0 Diversity Implications

6.1 The proposed contract will require the provider to deliver services which are:

- culturally sensitive by providing cultural awareness training for all staff, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
- able to provide support and advice to service users with disabilities, and young people with disabilities and older people; and
- able to provide training for all staff in areas that will raise awareness of issues faced by vulnerable people from different ethnic groups.

6.2 The provider will be monitored to ensure they are complying with these requirements through checking of their records, regular review of services provided to individual service users where feedback will be sought from service users, monthly monitoring meetings and provision of quarterly performance information to the Council.

6.3 In view of the fact that this procurement represents a change to the model of service delivery, it is necessary for the Cabinet as decision-making body to consider the equalities implications. An equalities analysis was completed when approval to procure was sought in December 2013 (see Appendix A) in accordance with the Equality Act 2010, and officers believe that there are no adverse diversity implications.

7.0 Staffing Implications

7.1 The services that are to be provided under the new contract are currently provided by external contractors. Under any new contract the service will be provided by external contractors and there are no direct implications for Council staff arising from tendering a contract of this type

7.2 There are no TUPE implications arising from the award of the Contract.

8.0 Public Services (Social Value) Act 2012

8.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (the "Social Value Act") to consider how the services being procured might be structured to improve the economic, social and environmental well-being of its area.

8.2 As the market for Advocacy services is highly specialised and limited, the opportunities available to the Authority in terms of the requirements of the Social Value Act were narrow. However, the proposed contract will expand existing Advocacy support to a wider group of residents to improve their overall social and economic well-being means that the actual subject-matter of the contract is in fact delivering the aims set out in the Act.

Background Papers

Report to Executive of 9 December 2013

The Care Act 2014: Independent Advocacy Support.

<http://www.legislation.gov.uk/ukpga/2014/23/part/1/crossheading/independent-advocacy-support/enacted>

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