

	Officer Key Decision
	Report to the Operational Director of Adult Social Care
AUTHORITY TO AWARD CONTRACT FOR ADVOCACY SERVICES (CARE ACT, MENTAL HEALTH ADVOCACY (IMHA), INDEPENDENT MENTAL CAPACITY ADVOCACY (IMCA) AND RELEVANT PERSON'S PAID REPRESENTATIVE (RPPR))	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendices 1 and 3 are exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	Three Appendix 1 List of Tenderers (exempt) Appendix 2 Tender Evaluation Appendix 3 Social Value Commitments (exempt)
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Name: Andrew Davies Job Title: Head of Commissioning, Contracting and Market Management 020 8937 1609 Email: andrew.davies@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report concerns the tender for Advocacy Services - Care Act Advocacy, Mental Health Act Advocacy (IMHA), Independent Mental Capacity Act Advocacy (IMCA) and Relevant Person's Paid Representative (RPPR) (the 'Advocacy Services'). This report requests authority to award contracts as required by Contract Standing Order 88.

- 1.2 The report summarises the process undertaken in tendering a contract and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendation(s)

That the Operational Director of Adult Social Care in consultation with Cllr Neil Nerva the Lead Member for Public Health & Adult Social Care:

- 2.1 Approves the award of a contract for the provision of Advocacy Services for an initial contract term of one (1) year with an option to extend for up to a further two (2) years on a one (1) year basis each time (1+1+1) to POhWER for the sum of £706,486.00.

3.0 Detail

- 3.1 Brent Council has been commissioning the Advocacy Services excluding the Relevant Person's Paid Representative (RPPR) service via the Gateway to Support Services contract since December 2019. This contract is delivered by a consortium of providers, led by Age UK, Brent, Hillingdon and Harrow. The current service contract comes to an end on 1st August 2023.

- 3.2 Following a review of the Gateway Service, approval was given in February 2023 to re-tender the services in the Gateway contract separately, and not continue with the current arrangement. Consequently, a tender has taken place seeking for a new provider of Advocacy Services. Under the Care Act (2014), councils are required to provide access to several different types of advocacy services –

- Independent Mental Health Advocacy (IMHA)
- Independent Mental Capacity Advocacy (IMCA)
- Care Act Advocacy
- Relevant Person's Paid Representative (RPPR)

- 3.3 In February 2023, the Operational Director for Adult Social Care signed off permission to tender for the advocacy services currently being delivered via the Gateway to Support Services and also RPPR services. This tender process is now complete, having been undertaken between March and May 2023. Officers are now in a position to report on the tender process and recommend to whom a contract should be awarded.

The Tender Process

- 3.4 The contract for Advocacy Services ("the Contract") will be let using the Contract Terms issued with the invitation to tender.

- 3.5 This procurement has been conducted in accordance with The Public

Contracts Regulations 2015 (the Regulations). At the time of the commencement of this procurement exercise, the threshold for Schedule 3 services for the purposes of the Regulations was £663,540. Accordingly, as the estimated value to tender the proposed contract was in excess of the aforementioned threshold for this category of service, an open tender procedure was adopted and a Contract Notice was placed on the Find a Tender service, Contracts Finder service and the London Tenders Portal on 30th March 2023. Bidders were provided with a specification, details of the tender approach and invited to complete the published tender documents comprising of a selection questionnaire, quality questions, pricing schedule and a social value action plan using the Council's Electronic Tendering Facility. Three bidders subsequently completed the Selection Questionnaire, all three bidders passed this stage and went on to have their submission evaluated and moderated.

- 3.6 The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the following criteria:

Award criteria	Weighting
Quality	50.00%
Service Model	10.00%
Quality Assurance	5.00%
Co-Production	5.00%
Resourcing	15.00%
Safeguarding	5.00%
Case study	10/00%
Social value	10%
Price	40%
Total	100%

Evaluation Process

- 3.7 The tender evaluation was carried out by a panel of officers from Adult Social Care.
- 3.8 All tenders had to be submitted electronically no later than 30th March 2023 at 1pm. Three valid tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.
- 3.9 The panel met between 18th April 2023 and 24th April 2023, each submission was scored by the whole panel against the award criteria.

Each submission was then moderated by Procurement.

- 3.10 The names of the tenderers are contained in Appendix 1 (exempt). The scores received by the tenderers are included in Appendix 2. It will be noted that Contractor C was the highest scoring tenderer. Officers therefore recommend the award of the Contract to Contractor C, namely POhWER.
- 3.11 The Contract will commence on 2nd August 2023, subject to the Council's observation of the requirements of the mandatory standstill period noted in paragraph 5.4 below.

4.0 Financial Implications

- 4.1 The Operational Director of Adult Social Care has delegated power to award Medium Value Contracts in accordance with paragraph 9.5 and paragraph 9.7 of Part 3 of the Constitution.
- 4.2 Officers propose the contract for Advocacy Services to be awarded to POhWER.
- 4.3 Based on the most recent accounts available POhWER passed Brent's financial assessment.
- 4.4 The value of the Contract over its lifetime (including the extension) is £706,486.00 (see paragraph 2.1).
- 4.5 The full cost of the Contract will be funded from the Community and Prevention Contracts budget which sits within Commissioning and Contracts service within Adult Social Care.

5.0 Legal Implications

- 5.1 Officers propose to enter into a Contract with POhWER for the provision of Advocacy Services for a period of one (1) year with an option to extend by an additional period of two (2) years on a one (1) year basis each. The value of the Contract over its lifetime (including the extension) is £706,486.00 (see paragraph 2.1).
- 5.2 Social care services such as the provision of Advocacy Services fall within the social and other services listed in Schedule 3 ("Schedule 3 Services") of the Public Contract Regulations 2015 (the "PCR 2015"). The value of the Contract over its lifetime is in excess of the PCR 2015 threshold for Schedule 3 Services currently set at £663,540 (inclusive of VAT) and the award of the Contract is therefore governed by the PCR 2015. Section 3 of the report outlines how the Contract was procured in accordance with the PCR 2015.

- 5.3 The award of the Contract is subject to the Council's own Standing Orders in respect of Medium Value Contracts. The Operational Director of Adult Social Care has delegated power to award Medium Value Contracts in accordance with paragraph 9.5 and paragraph 9.7 of Part 3 of the Constitution.
- 5.4 The Council must observe a mandatory minimum 10 calendar day standstill period under the PCR 2015 before the Contract can be awarded. Therefore once the Operational Director of Adult Social Care has determined which tenderer should be awarded the Contract, all tenderers will be issued with written notification of the Contract award decision. A minimum 10 calendar day standstill period will then be observed before the Contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the PCR 2015. The standstill period will run concurrently with the Council's usual call-in process. Subject to there being no call-in, after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the Contract can commence.
- 5.5 The provider recommended for this award is not the provider currently delivering the services. As a result, employees working for the current provider and who are assigned to deliver the services covered by this contract may be subject to transfer to the recommended provider pursuant to TUPE. The provider has outlined within their response a timetable and statements of how they intend TUPE to operate.

6.0 Equality Implications

- 6.1 Pursuant to s149 Equality Act 2010 (the "Public Sector Equality Duty"), the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,
- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected

characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

6.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

6.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications. “The new service will not remove services, but it will change the way services are delivered and will place greater emphasis on a personalised outcomes based approach.

7.0 Consultation with Ward Members and Stakeholders

7.1 This contract has borough wide implications, specific consultation has not been carried out with ward councillors.

7.2 There has been engagement with service users and support agencies in Brent. To garner the views and experiences of the service users and where we could make improvement on service provision.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the Contract

9.0 Public Services (Social Value) Act 2012

9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 Social value had a weighting of 10% of the evaluation score and in evaluating tenders, the Council requested proposals address the following initiatives:

- Employment support and skills provision, including significantly increasing the take-up of apprenticeships
- Local investment from contractors

- Encouraging people to contribute to clean air in Brent by using alternatives to cars for those journeys where it makes sense, by prioritising more walking and cycling routes, promoting sustainable means of transport and the health benefits of being more active.

9.3 This contract will deliver the social value benefits set out in Appendix 3.

Report sign off:

Andrew Davies
Head of Commissioning,
Contracting and Market
Management, Adult Social Care