

**NORTH SOMERSET COUNCIL  
DECISION**



**DECISION OF: EXECUTIVE MEMBER FOR ADULT SOCIAL SERVICES  
WITH ADVICE FROM: THE HEAD OF COMMISSIONING  
DIRECTORATE: PEOPLE AND COMMUNITIES**

**DECISION NO: P&C27**

**SUBJECT: TO RECOMMISSION STATUTORY CARE ACT ADVOCACY SERVICES  
FOR ADULTS**

**KEY DECISION: YES**

**BACKGROUND:**

The North Somerset Corporate Plan 2015-19 considers various areas of key focus. The following listed under Health and Wellbeing relate to the recommissioning of Statutory Care Act Advocacy for Adults:

- Enable residents to make healthy choices and promote active lifestyles, which reduce ill health and increase independence.
- Commission of provide quality health and care services, which deliver dignity, safety and choice.

The following listed under Prosperity and Opportunity relate to the recommissioning of Statutory Care Act Advocacy for Adults and Children.

- Enable young people to fulfil their potential.

The following listed under Quality Places relate to the recommissioning of Statutory Care Act Advocacy for Adults and Children.

- Empower people to contribute to their community and communities to provide their own solutions.

The People and Communities Directorate Statement for 2015-17 lists the following as two of its aims.

- Promoting independence and enabling individuals and families and communities to improve their own lives.
- Ensuring that people receive the care and support they need with maximum personal choice and control.

**DECISION:**

That this commissioning plan be approved to proceed, to tender for Statutory Care Act Advocacy Services for Adults to a single supplier.

## **REASONS:**

### Summary

This will be a single supplier contract which will start on the 1<sup>st</sup> April 2018 for a total period of 7 years.

Current advocacy services are confusing and fragmented to access for professionals and service users. This contract will replace the current individual advocacy contract and also where Adult Social Care teams spot purchase on individual agreements. A single supplier contract that covers all statutory Care Act advocacy requirements would give North Somerset Council more control to set, manage the quality of the service, and to better audit both usage of the service and expenditure.

Purchasing against this block contract is not guaranteed or committed at this level beyond the annual review as it will be demand led and consideration will be given to the Council's Medium Term Financial Plan and overall affordability gap.

### Introduction

- North Somerset Council currently delivers statutory advocacy services that meet our legal obligations through the following services. The current contract with 1 in 4 previously known as 'Friend', provides support with the Mental Capacity Act and the provider currently sub contracts the NHS Complaints Advocacy (IHCA) work to a third party called SEAP. The Adult Social Care team's spot purchase Care Act Advocacy mainly with one provider, Your Say, and this is commissioned on individual agreements. It is intended that the non-statutory services delivered by 1 in 4 People under the current contract are reviewed with partners who are commissioning similar non statutory services. The division of statutory and non-statutory advocacy and mental health community engagement work will provide a clear focus on the Council's statutory service provision for advocacy.
- TUPE will apply from the incumbent provider.
- North Somerset Council will contract with one supplier who will have the suitable skills and experience to deliver statutory advocacy under the Care Act. The contract will also allow the suitable supplier the function to sub-contract, this will allow the provider to deliver advocacy services out of area or deliver specialist requirements.

The provider will supply the following statutory advocacy services:

#### Mental Capacity Advocacy (IMCA)

Independent mental capacity advocates who are available to represent people who lack capacity to make decisions about serious medical treatment, the provision of or change of accommodation, where there are no relatives or friends to act on their behalf. This will also include the provision of Paid Representatives for those people who are deprived of their liberty.

#### Independent Mental Health Advocates (IMHA)

Independent mental health advocates aim is to enable residents to participate in decisions about their care and treatment.

#### NHS Complaints Advocates (IHCA)

Providing support to people wishing to make a complaint about services from the NHS.

This service is a statutory duty under the Local Government and Public Involvement in Health Act 2007 and is funded as one element of the Local Reform and Community Voices Grant received by the Council. .

#### Independent Advocacy (ICCA)

Provide independent advocacy to eligible residents from the first point of contact with the local authority through to any subsequent stage of the assessment, planning, care review, safeguarding enquiry or safeguarding adult review.

To bring the advocacy contract in line with other contract timetables, notice will be given to 1in4 People to end the contract in March 2018 rather than let the contract run to its end in June 2018.

### Contract Structure

- The estimated contract value for the life of the contract is £504k. The term of the proposed contract is 5 years with an option to extend for a further 2 years in 1 year increments.
- The initial term of the contract will be for 60 months.
- There will be two extension periods for a period of 1 year and 1 year = to 24 months.
- There is a 6 month termination period without cause in the contract.
- The estimated contract value per year is £72k although purchasing against these contracts is not guaranteed or committed at this level subject to the annual review, this will be demand led and consideration be given to the Council's medium term financial plan and overall affordability gap.

### Outline timeline

- The preparation of the specification and ITT documents will be completed by the 16<sup>th</sup> October 2017.
- The procurement process commences through advertising the opportunity on the 17<sup>th</sup> October 2017

- The successful supplier will be notified on the 5<sup>th</sup> February 2018, subject to the Alcatel period.
- The service will start on the 1<sup>st</sup> April 2018

### **OPTIONS CONSIDERED:**

North Somerset Council could decommission the current advocacy contract, if this happened North Somerset Council would not be meeting its statutory duties. Service users would be at risk as the market would not function without a more formal commissioning arrangement in place.

An option could be to retender the contract in its current form. This would not provide the clarity in service delivery we need and could be more expensive to the future budget, and processes for referrals to access the service are unclear which could hinder providers and referring teams.

### **FINANCIAL IMPLICATIONS:**

The current block contract value with 1 in 4 is £190k per year, this covers a number of elements including the statutory advocacy which is being recommissioned within this tender. North Somerset Council also spot purchases from 1 in 4 and this spend in financial year 2016/17 was £2,742, and to date in 2017/18 is £4,125. North Somerset Council also spot purchases advocacy from provider Your Say which in financial year 2016/17 was £15,079 and to date in 2017/18 is £1,629.

The separation of statutory advocacy and non-statutory mental health community engagements will provide greater clarity and control over service provision and cost.

It is recommended to control costs that North Somerset Council commission a block purchase arrangement based on the current referral rate, which is currently 527 referrals per year for statutory advocacy. Providers will be asked to submit an inclusive hourly rate. Statutory advocacy is predicted to increase so the provider would also be required to submit a spot purchase rate for when North Somerset Councils demands grow.

The hourly rate submitted by the provider will be fixed for the life of the contract except for the inflation clause of the contract. It is recommended that when either under delivery or over delivery of the contract occurs in the first year, numbers would be rebased going forward which could decrease or increase the block purchase arrangement value.

Following benchmarking with other Councils and advocacy providers, hourly rates ranged from £25 per hour to £34 per hour. It is recommended that the tender is evaluated on a 60% quality and 40% price split as the difference between rates is negligible. Through gaining a fixed hourly rate for statutory advocacy services it would enable expenditure to be monitored and controlled.

Estimating the value of the block on a basis of an average four hours service at circa £30 benchmarked value, would derive an initial block estimate of £72,000. Outside of the procurement process a further review of non-statutory commissioned advocacy will identify a level of saving from voluntary commissioning anticipated at circa £80,000 although this will require further review of non-statutory spend.

## **LEGAL POWERS AND IMPLICATIONS**

This procurement will be managed following the Light Touch Regime as defined within the Public Contract Regulations 2015.

The service considered in this procurement are statutory requirements (Care Act 2014, Mental Capacity Act 2005, Mental Health Act 1983 as amended in 2009). Local Authorities cannot provide these services themselves as the legislation requires them to be provided independent of the Local Authority or NHS providers.

## **CONSULTATION**

As part of the commissioning process some soft market testing was completed in August 2017.

## **RISK MANAGEMENT**

Provider failure will be mitigated by robust contract monitoring and compliance of the contract.

The population of North Somerset is growing, and in 2015 was estimated to be 209,944 people. This is predicated to grow over the next two decades, reaching 256,120 by 2039. It is not clear at this stage to establish the potential numbers of residents that North Somerset will have a statutory duty to provide Care Act advocacy for.

Through this recommissioning it will mean that costs can be controlled as North Somerset Council currently spot purchases elements of its statutory advocacy from both the block contracted provider 1 in 4, and the provider Your Say. When the new contract is set up all referrals for statutory advocacy will go to the new supplier. It will mean services are more auditable through the contract in terms of how we measure quality, control costs, volumes and values in service.

It is recommended following legal advice that the provider would be paid in monthly instalments for the block contract. This would lower the risk to North Somerset Council if the provider went in to liquidation or North Somerset Council ended their contractual arrangements with the provider.

## **EQUALITY IMPLICATIONS**

North Somerset Council's Initial Equality Impact Assessment has been completed and no high or medium risks were identified.

An Equalities Impact Assessment of the future options for the non-statutory services delivered through the current contract with 1 in 4 People will be completed as part of the options discussions with the CCG who commission similar services.

## **CORPORATE IMPLICATIONS**

Not applicable.

## **BACKGROUND PAPERS**

North Somerset Corporate Plan 2015-19  
Equality Impact Assessment

SIGNATORIES:

DECISION MAKER(S):

Signed: .....

Title: Executive Member, Adult Social Services

Date: .....

WITH ADVICE FROM:

Signed: .....

Title: Head of Commissioning

Date: .....