

**NORTH SOMERSET COUNCIL
DECISION**

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



DECISION NO: 2017/18 Scheme P&C28

SUBJECT: TO RECOMMISSION ADVOCACY SERVICES FOR ADULTS

KEY DECISION: NO

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 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 Advocacy for Adults.

- Enable young adults to fulfil their potential.

The following listed under Quality Places relate to the recommissioning of Advocacy for Adults.

- 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 procurement plan be approved, to proceed to tender for Advocacy Services for Adults to a single supplier.

REASONS:

Introduction

In 2013 North Somerset Council awarded a contract for Advocacy Services and Mental Health Community Engagement Services to 1 in 4 People Ltd, previously known as Friend (North Somerset) Ltd. The contract was for a four year period from the 1 August 2013, with an option to extend for a further year. In April 2017 it was agreed to extend the contract for the additional year (Decision Number P&C87).

North Somerset Council currently delivers 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, SEAP. The Adult Social Care team also spot purchase Care Act Advocacy in the main 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 (CCG) 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 duty to provide advocacy.

The way we currently use our advocacy services is confusing and fragmented for professionals and service users to access. This new 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 North Somerset Council's advocacy requirements as detailed above 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.

TUPE is highly likely and we envisage there being 3-4 advocates who could be eligible for TUPE. Conversations have been had with 1 in 4 with regards to them providing us with this information early, in time for the issue of the tender documentation.

To bring the advocacy contract in line with other contract timetables, notice will be given to 1 in 4 People to end the contract in May 2018 rather than let the contract run to its end in June 2018.

Commissioning Plan

The Commissioning plan that supports this procurement plan has been agreed, signed off and is attached.

Lessons learned from previous projects

To date, and as previously described, the current advocacy arrangements are spread across several providers which has made it difficult to manage and difficult to control spend. Referrals have also come from different areas within the council and those areas have potentially disaggregated the overall spend. This procurement is taking the learnings from the last few years and developing a single provider contract which will

enable a better contract management position and will enable better control over the councils spend. Introducing a single referral process through the provider also facilitates this.

At the outset of the pre procurement phase we had in mind to use the brokerage team to manage the referral process, however during our market research with key interested providers, we established that the most appropriate way to manage calls would be through the appointed provider, as it was felt that they would be best placed to manage the referrals, ascertain their eligibility and triage the calls. Close monitoring will be required by the Contract manager to ensure that the provider is both correctly accepting referrals and prioritising them.

Currently we pay the existing advocacy provider on an automated 4 weekly basis. Going forward we will begin to pay invoices on a monthly basis and only on the proviso that the monthly MI information has been received from the provider in line with the PI's detailed in the relevant schedule of the contract. Payments will continue to be made in arrears.

Out of county referrals will not continue to be managed by the provider. The existing arrangement can result in the council paying the mileage for an advocate to travel to other parts of the country. The new contract will request that the provider makes contact with the Local Authority in the relevant county to establish their preferred provider, whom we will then spot purchase a referral from. Figures show that for the last 12 months only 5 referrals have come from out of county.

Requirement

North Somerset Council will contract with one provider who will have the suitable skills and experience to deliver advocacy under the Care Act. The contract will also allow the provider the ability to sub-contract, this will allow the provider to deliver advocacy services out of county or deliver specialist requirements.

With this contract the provider will supply the following 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.
- **Paid Representatives**
The purpose is to provide a paid relevant person's representative service for people deprived of their liberty subject to standard authorisations under the Mental Capacity Act 2005.
- **Nearest Relative**
A nearest relative can do various things in connection with a person's care and treatment. If a person has a mental disorder the nearest relative can ask for you to be detained (kept) in hospital if they think the person needs to be in hospital. The nearest relative can also make an application for the person to be put on guardianship, if two doctors agree.
If a person does not have a nearest relative, or no one can work out who your nearest relative is, a person can ask the county court to make someone your nearest relative.

The service provider will support the council in meeting its aims and objectives in ensuring that people and carers are involved in decisions about their care and support. The council's objective is to ensure that people and carers understand how they can be involved, how they can contribute and take part, in some cases, how they can lead or direct the process. The service provider will deliver advocacy under the Care Act 2014 in accordance with the Care Act statutory guidance.

This contract will not be broken down into lots. Following discussions with a number of providers in the market we know that there are interested providers who can effectively manage the entire contract without the need to break into Lots. Given that we are looking to the provider to manage the referral process, to break down the contract into lots, we believe would create difficulties around the referral process.

We will not be looking to collaborate with this contract, our neighbouring authorities are already in existing and relatively recent contracts, their requirements also differ from ours (statutory vs non statutory). Whilst we are not looking to collaborate we have spoken with our neighbouring authorities to understand the market interest, share best practice and pick up any learnings from their procurement process and discuss the specification of their service.

Following an advert on the procurement Portal (Supplying the South West), describing a brief overview of the service we are looking to procure, we received a good level of interest from the market. We invited 6 local and national providers to come in and discuss their organisations, their coverage of the advocacy requirement and ask some key questions about the specification and the tender process. Their feedback has developed our thinking around the specification, the tender process, the contract considerations and the commercial model.

We also held two Stakeholder sessions with a multi-disciplinary panel. During these sessions we discussed the details of the specification and their required outcomes from the contract. This has ensured that the specification is detailed enough to ensure that the interested providers are clear on what advocacy provision we are looking for. It has also enabled us to ensure that the method statements by which the quality will be assessed are tailored to the required outcomes of the stakeholders. In addition during our meetings with providers we also asked them what key areas they thought we should assess them on.

All of the above has been factored into our method statements.

Route to Market

Following feedback from interested providers during the one to one provider sessions as part of our market research phase we are recommending an Open Tender process with a Presentation/Negotiation stage, developed in line with the ability given within the Light Touch Regime introduced in the Public Contract Regulations 2015. This will enable us to shortlist the most capable providers and work on refining their bid by negotiation. This in turn will enable us to create the best value contract with the reduced specification.

The proposed duration of the contract is a 36+12+12+12.

Timescales

The timetable for this procurement is attached. A summary of the attached is as follows:

Opportunity advertised on the portal – 8 December 2017
Tenders received from interested providers – 16 January 2018
Initial evaluation process – 17-31 January 2018
Negotiation sessions – 15-16 February 2018
Final Evaluation – 20 February 2018
Contract award (Director sign off) – March 2018
Contract Start – 1 May 2018

Governance

The Contract Manager for this tender process will be a member of the Contracts and Commissioning team.

The Procurement lead for this contract is the Procurement Manager for Corporate Services.

Both the Commissioning and Procurement plan we be signed off by the Executive Member for People and Communities, whereas the Contract Award will be signed off by the Director for People and Communities advised by the s151 officer and the Head of Procurement.

Market/Suppliers

During the market research phase we published an advert via the procurement Portal, Supplying the South West giving a brief overview of the requirement of the contract and requesting expressions of interest to gauge the market interest. We received 20

expressions of interest and from these we invited six providers to individually attend a session with both the Procurement Manager and the Contracts and Commissioning Officer. In preparation for these sessions we created a list of standard questions that we asked each of the six providers. Those questions included:

- understanding their organisation,
- their level of experience with each of the statutory advocacy requirements
- discussing with each of them what they thought we should ask of the providers in the method statements
- getting their view on what we should monitor them on and
- gauging their advice on the referral process.

We asked for them to consider whether what we were looking for was commonplace in order to establish if our requirement would be met with interest from the market. We received some good advice about the management of referrals which we have used to adapt our specification. Many of the providers were also keen to share with us their experience of working with other Local Authorities under different types of contracts and were keen to express their preference for a block contract. Although we are not officially going down the route of a block contract, we are guaranteeing the annual volume of referrals

Each of the providers were keen to express their overall interest in the contract opportunity with us and as such we expect there to be a good level of overall interest from the market to ensure this is a competitive tender process. The last time that we tendered for the Advocacy service, albeit the scope would have been different we received 9 tenders. Given the market research we have undertaken I would anticipate receiving a minimum of 5 tenders.

Social Value, Sustainability & VCSE

There are several ways in which we have addressed the Social Value opportunities within this contract opportunity.

Within the specification we have considered the social value act in terms of all three areas, Economic, Social and Environmental.

In addition within the tender document we have allocated 10% of the quality weighting to understand from the provider how they intend to achieve the requirements highlighted within the specification. To encourage innovative social value we have also asked for them to consider what they can offer in addition to what we have defined. We have attached an appendix to the tender which gives them a steer with regards to what is important to North Somerset Council and what could be relevant to this contract.

Within the PIs are quarterly monitored indicators which requires the provider to produce evidence that they are meeting the requirements of the social value elements of the specification and that of their response to the social value question within their tendered method statements. It is a contractual requirement that the PIs are received by the council on a monthly basis before their invoice is paid.

Evaluation

Following internal discussions, the quality/price split has been changed to 50/50. Originally in the commissioning plan it stated 60/40 in favour of quality. The change in weighting is to reflect the council's budget challenge.

Quality

The quality criteria and their associated weightings are as follows:

1. Service outcomes – how a provider is able to evidence that they support the council in enabling people to feel empowered, improving a person's wellbeing and puts the person at the centre of the decision making process 20%
2. Quality Assurance – delivery and measurement 5%
3. Social/Added value - 10%
4. Duty of care to Persons and employees 5%
5. Monitoring and evaluating – meeting and delivering the need 10%
6. Staffing – understanding the staffing arrangements for the contract delivery 20%
7. Transition to the new service – 20%
8. Service Sustainability (additional need) – 5%
9. Case study for each of the Advocacy areas described in the specification – 5%

In terms of the outcomes required from this contract the stakeholders were keen to understand what the quality and experience of the staff and the organisation involved in this contract would be. They wanted to understand the level of training involved in ensuring the competency of those involved in the advocacy service. The staffing question therefore breaks down into a number of prompts for the provider to respond to and the weighting has been set to reflect this.

As with most contracts, another key requirement of the stakeholders was the implementation of the contract and in particular how the cases will transfer smoothly, this is particularly important in this type of service where in essence the advocate may change mid case. This was also highlighted as a risk in the procurement plan. The weighting has also been reflected to emphasise the importance of this.

One of the key outcomes for all P&C related contracts is the Persons wellbeing being at the forefront for all providers when providing services in this field. Our opening question is all about establishing how a provider ensures that they support us in ensuring that Persons feel empowered and are at the centre of the decision making process. Again the weighting has been reflected to emphasise the importance of this outcome.

After the initial evaluation of the tenders (SQ and Quality/price) we may choose to move to a second phase, the presentation/negotiation phase. Should we move to this stage, and we reserve the right not to, we would look to shortlist up to three providers who have scored the highest in the initial evaluations and invite them to a presentation/negotiation session. We will set a minimum quality score requirement of 50%, i.e. any provider who does not meet a minimum score of 50% (weighted 25%) with their method statements will be disqualified from the initial stage. In the event that we do this our criteria for scoring will be as follows:

- Quality (method statements) 35%
- Presentation 15%
- Pricing 50%

For the presentation we will ask each shortlisted provider to prepare a fifteen minute presentation on the following topic:

'As an experienced provider of advocacy how do you ensure that your Advocates manage the boundaries between themselves and the person / client. Please also outline how your organisation begins and ends a case.'

After the second phase (presentation and negotiation), the shortlisted providers will all be given a second opportunity to reconsider both their method statements and their pricing schedules, whereby upon resubmission they will be evaluated for a second time using the above criteria.

The scoring criteria used will be:

Score	Marking Guidelines
0	Fails to meet requirements or response entirely unsatisfactory to the scope of the requirement.
1	Inadequate - Where response meets very few aspects of the requirement, but in the main is unsatisfactory.
2	Limited - Meets requirements in most respects but missing some key elements. Lacking in detail and/or examples
3	Acceptable - Meets basic requirements with minor reservations (to be documented)
4	Good - Answer that meets full requirements.

The evaluation panel will consist of the following group:

- Procurement Manager, Facilitator
- Contracts and Commissioning Officer x 2, Evaluator
- Service Lead for Adult Care, Evaluator
- MCA/DoLS Manager Adult Care, Evaluator

Pricing

The proposed approach for the pricing model is as follows:

The council tenders on the basis that we will guarantee 527 cases per year. We will provide an indicative level of volumes per advocacy type. We will also indicate that during our market research phase providers indicated to us that on average each advocacy case takes 4.5 hours, but we will ask that each provider should make their own judgement. Each provider will then submit an overall fixed price.

In addition the provider is given a monthly funding cap with which they must consult with the council before accepting additional referrals. This manages any spike in referrals across the year.

The benefits of this model are:

- that we transfer the risk of the number of hours each referral takes to the provider, because they have made the assumptions that underpin their rate

- there is no need to renegotiate or reallocate the volumes between the different types of referrals
- contractually this is a safer method
- cost management works through having a monthly cap
- risk allocation is transparent meaning that the contract is easier to manage and enforce

Any risks associated with the model have been detailed within the risk section.

The tender with the lowest total price will receive the maximum score of 100% and the prices of all other tenders will be expressed as a percentage of the maximum score. Here is an example:

	A	B	C	D	E
Bidder	Submitted Bid (£)	Difference from Lowest Bid (£)	Unweighted Price Score %	Price Weighting %	Weighted price score %
Bidder A	£108,507	£42,822	60.54%	40%	24.21%
Bidder B	£65,685	£0	100.00%	40%	40.00%
Bidder C	£79,386	£13,701	82.74%	40%	33.10%
Bidder D	£80,813	£15,128	81.28%	40%	32.51%

Contract Management

Following award the contract will be managed by the Contracts and Commissioning Team. There are a number of PIs that have been defined in conjunction with the stakeholder group and which form an appendix to the tender documentation. The PI information will be provided on a monthly basis and will form the basis to the scheduled quarterly contract meetings.

In addition to the quarterly meetings there will be an annual meeting to discuss the overall performance of the contract.

There are clauses within the contract with regards to the performance management of the contract and in particular when poor performance is experienced.

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:

Costs

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 fixed referral purchase arrangement based on the current referral rate, which is currently 527 per year for statutory and some non-statutory advocacy. Providers will be asked to submit an inclusive rate per case. This will fix the referral rate for each of the 527 referrals per year. Statutory advocacy is predicted to increase so this model will allow the council to purchase over the guaranteed rate of 527.

The case 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 fixed case arrangement value going forward.

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 50% quality and 50% price split as the difference between rates is negligible. Through gaining a fixed case rate for statutory advocacy services it would enable expenditure to be monitored and controlled.

Estimating the value of the contract on a basis of an average 4.5 hours service at circa £30 benchmarked value, would derive an initial contract 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.

Funding

The budget for the service is £72,000 per annum (with a rebase of the referral volume every two years which is tied into any possible uplift discussion (described in the contract)).

There is an additional £20,000 which has been held back to fund any increases in the referral volumes. We believe that this will cover an additional 150 hours of spot purchased requirement for the first 12 months based on market research of the average cost of each case. This is provisional at the moment, as it's an unknown what

that increased volume will look like, other than indications from operations that demand will increase. Finance are aware of this and it has been budgeted for.

It is not anticipated that there will be any savings made from this procurement/tender process.

There are savings within the MTFP, this is based on the change to the commissioned model, i.e. moving towards a mainly statutory model of advocacy.

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.

Both the Contracts and Commissioning Officer and the Procurement Manager have liaised with the Legal team in order that a bespoke set of Terms and Conditions have been created in readiness for the advertisement of the contract.

CONSULTATION

As mentioned previously in this document a number of providers have been consulted with regards this Advocacy contract. Both in order to help us refine the specification and to also establish the interest and competitiveness in the local market.

We have also met with key internal stakeholders from different areas of the council. During all of these sessions we have spent time considering the specification, the KPIs the Method Statements and the contract.

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. The pricing schedule for this contract will enable the provider to submit costs for a guaranteed amount of referrals as defined within the specification for each element of the service. We have put a monthly cap on referral in order to manage the capacity, the provider will need to contact the council in the event that the cap is reached to discuss any further requirement within that month.

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 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.

In order to ensure that we receive affordable bids from providers we have firstly tested the market in terms of benchmarking prices across a number of key providers. This combined with our internal research of statutory advocacy requirement has given us a view of what we are able to afford from a budgetary point of view.

We are confident that upon meeting with some key providers that we will receive a competitive amount of bids. The interest from the market overall suggests that this is the case.

We have moved away from a block contract model which could mean the contract is less attractive to the market. To mitigate this risk we have guaranteed a minimum amount of referrals per year based on previous year's data.

There is a risk that the tendered rates are higher than anticipated, as is often a risk in any procurement. The pricing schedule incentivises the provider through the evaluation model to work efficiently and reflect this in their rates. The guarantee of an annual volume of referrals should also assist in incentivising providers to tender keenly.

Spikes in demand could cause budget management problems, agreeing a payment profile that smooths funding across the year, with regular true ups. The monthly cap also helps to mitigate and manage the spikes in referrals.

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
PC27 Statutory Advocacy Services for Adults

SIGNATORIES:

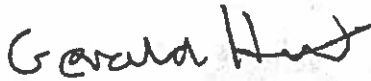
DECISION MAKER:

Signed: 

Title: Executive Member for Adult Social Services

Date: 7/12/17

WITH ADVICE FROM:



Signed:

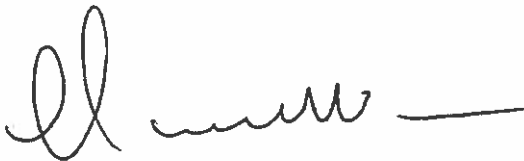
Title: Head of Commissioning

Date: 5 December 2017

Signed: 

Title: S151 Officer

Date: 5/12/17



Signed:

Title: Head of Procurement

Date: 5.12.17

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable:

