

Cabinet Meeting on Wednesday 21 July 2021

Recommissioning of a Staffordshire Integrated Advocacy Service



Cllr Julia Jessel, Cabinet Member for Health and Care said,

“The availability of a professional advocacy service is essential to provide support and a voice to those who, for a variety of reasons, may not otherwise be able to fully express what they want.

Every year this service supports hundreds of people across the county to take more control of how they live their lives.”



Cllr Mark Sutton, Cabinet Member for Children and Young People said,

“Dealing with the authorities and institutions can be a daunting experience for any of us, let alone potentially vulnerable children and young people who need support at a key stage in their lives.

The recommissioning of the Staffordshire Integrated Advocacy Service will provide the continuation of effective, focused help for those who need it most.”

Report Summary:

Advocacy is the provision of help and representation by an advocate in supporting and enabling a person who is otherwise unable to speak up for themselves to self-advocate or to speak up on the person’s behalf. It means supporting people to take more control about decisions over their lives and to make informed choices

The County Council currently commissions a Staffordshire wide, single, Integrated Advocacy Service which provides a more comprehensive approach to coordination and delivery of the following statutory advocacy services:

- Independent Mental Capacity Advocacy (IMCA) including Deprivation of Liberty Safeguards (DoLS) and paid Representatives
- Independent Mental Health Advocacy (IMHA)
- Care Act Advocacy, including for Prisoners
- Independent Health Complaints Advocacy Service (ICAS)

The contract term of the current service runs from 01 April 2018 to 31 March 2022 with no further extension option. The current contract eligibility includes adults with care and support needs, young people in transition/preparing for adulthood aged 14 years and above, and the carer(s) of both.

During 2020/2021 there were a total of 1,232 advocacy cases supported through the current contract. Individuals provided with advocacy support during this period included those with an acquired brain injury, autism, dementia, learning disability, mental health condition, physical disability, sensory impairment, stroke, substance use/addiction

Whilst soft market testing is currently underway, options available for retendering the service have been considered and are evaluated in the following report.

Recommendations

I recommend that Cabinet:

- a. Approves the commencement of a competitive tender process to procure the commissioned service in accordance with Option A (recommissioning of an equivalent Integrated Advocacy service model), as detailed in this report.
- b. Provides approval for the contract to be awarded and entered into with the successful provider, following the competitive tender process, be delegated to the Director for Health and Care and the Deputy Chief Executive and Director for Families and Communities.

Local Members Interest
N/A

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Recommendations of the Cabinet Member for Health and Care and the Cabinet Member for Children and Young People

I recommend that Cabinet:

- a. Approves the commencement of a competitive tender process to procure the commissioned service in accordance with Option A (recommissioning of an equivalent Integrated Advocacy service model), as detailed in this report.
- b. Provides approval for the contract to be awarded and entered into with the successful provider, following the competitive tender process, be delegated to the Director for Health and Care and the Deputy Chief Executive and Director for Families and Communities.

Report of the Director for Health and Care and the Deputy Chief Executive and Director for Families and Communities

Reasons for Recommendations:

Advocacy

1. Advocacy is the provision of help and representation by an advocate in supporting and enabling a person who is otherwise unable to speak up for themselves to self-advocate or to speak up on the person's behalf. It means supporting people to take more control about decisions over their lives and to make informed choices.
2. The Council uses Advocacy to support individuals who are eligible to access the range of statutory services within the contract.

Current Advocacy Services

3. The County Council currently commissions a Staffordshire wide, single, Integrated Advocacy Service which provides a more comprehensive approach to coordination and delivery of the following statutory advocacy services:
 - a. Independent Mental Capacity Advocacy (IMCA) including Deprivation of Liberty Safeguards (DoLS) and Paid Representatives
 - b. Independent Mental Health Advocacy (IMHA)
 - c. Care Act Advocacy, including for Prisoners
 - d. Independent Health Complaints Advocacy Service (ICAS)
4. The contract for the current service runs from 01 April 2018 to 31 March 2022 with no further extension option. The service model has been running well, including

during the Covid 19 pandemic with a fairly consistent level of support provided throughout the contract period, no significant waiting lists and no quality concerns or complaints of note being raised.

5. The current contract eligibility includes adults with care and support needs, young people in transition/preparing for adulthood aged 14 years and above, and the carer(s) of both. During 2020/2021, the service supported 1,232 advocacy cases, including individuals with an acquired brain injury, autism, dementia, learning disability, mental health condition, physical disability, sensory impairment, stroke and substance use/addiction.
6. The current four-year contract value is £2,008,376 with increasing efficiencies across the term of the contract and a final year (2021/2022) value of £476,744.

Commissioning Options

7. Options available for retendering the service have considered pending changes to replace the Deprivation of Liberty Safeguards (DoLS) with the new Liberty Protection Safeguards (LPS). A revised Impact Assessment from the Department of Health and Social Care (DHSC) is expected, for consultation, in Summer 2021 with new LPS regulations proposed to commence from April 2022. This will enable the calculation of potential cost implications for Staffordshire as a result of anticipated additional IMCA referrals arising from LPS applying to additional settings such as supported living, shared lives, private and domestic settings (not just hospitals and care homes) and including 16 and 17 year olds, not just adults.
8. The DHSC has initially indicated that 25% of people subject to the new LPS will require direct IMCA support and, on average, an IMCA provides 38 hours direct support per client at approx. £35 per hour. As a result of legislative changes, the current level of approx. 4,000 DoLS referrals per year in Staffordshire could reasonably be expected to rise to between 5,000 and 6,000 per year. Applying DHSC estimates, this would equate to 1,250 to 1,500 people in Staffordshire at a cost of between £1.6m and £2m, for IMCA cases alone.
9. The Government has confirmed that there will be a transitional period of up to 1 year, where DoLS will run alongside LPS to support transfers between the two.
10. As the current Integrated Advocacy Service model introduced in 2018/19 has proved successful, unless market engagement indicates otherwise, it is proposed we recommission using the same model with no expected material change to the service specification. Drafting of any new specification will be completed jointly between both Adults and Children's services to ensure there is no duplication with any other existing statutory advocacy services for individuals aged 14 to 18.
11. **Option A: Recommission an equivalent Integrated Advocacy Service model to commence on 01 April 2022, for a maximum contract period of 4 years.** Whilst we do not expect any material change from the current service specification, the successful provider will need to transfer from delivering an IMCA DoLS to an IMCA LPS service when the Code of Practice/Guidance is published. This will

require the contract and budget to be varied in line with reasonable capacity adjustments required as a result of that change.

Risks	Mitigations
Limited bidders due to uncertainty re LPS (LOW)	Initial market engagement indicates interest in the tender opportunity. Other LA's have successfully taken this approach.
Further delays to the new LPS (LOW)	A contract period of up to 4 years, allowing continuity of service.
Successful provider does not agree to any proposed contract variation(s) following confirmation of LPS (MEDIUM)	ITT Questionnaire to include requirement for a clear plan on how provider will accommodate any extra demand, which will form part of evaluation/award criteria. Work with provider to mitigate any concerns they may have
We receive clarity re LPS implications at the point we are about to/have already gone out to tender (MEDIUM)	Ability to withdraw the tender, approach current provider for an extension (as per Option B) and then revise/recommence the tender process– albeit not an ideal approach.

12. **Option B: Extend the existing contract, by an Exception Report from Procurement Regulations, for an additional period of up to 12 months**, in 3 monthly allocations whilst awaiting clarity on LPS legislation implications and additional government funding (if available).

Risks	Mitigations
Challenge from wider market (LOW)	Extending current contract by short period only
Current Provider may not accept extension period on offer (LOW)	Unlikely but Commissioners can discuss in advance should this Option be chosen
Extension results in us exceeding the value of the original OJEU (procurement) notice (LOW)	Ability for Procurement to amend the original OJEU
Updated LPS legislation is delayed further and beyond period of extension (LOW)	Further extension or move to Option A

13. The **preferred Option A** would have an initial budget set at the current (2021/2022) expenditure levels of £477,000 per annum. The total budget available for the new commission is £553,280 per annum but it is proposed that the surplus of £76,280 per annum remains as a contingency to contribute towards anticipated increased IMCA costs, given uncertainties over additional Government funding that will be made available to support this legislative change. However, there could still be a significant potential funding shortfall in a worst-case scenario situation, for Staffordshire.
14. Based upon the proposed budget for the new service plus anticipated increased IMCA costs as a result of legislative changes, the Council could expect to commit expenditure, over the 4 year period of the contract, in excess of £2m. Any increase in demand (which is still to be clarified) as a result of legislative changes, above the current allocated budget for this service, is not currently included within the Medium Term Financial Strategy.

Health and Care Overview and Scrutiny Committee and Safeguarding Overview and Scrutiny Committee

15. As we do not expect to make any material change to the service/model, this matter has not been formally tabled for Health and Care Overview and Scrutiny Committee or the Safeguarding Overview and Scrutiny Committee. The Chairs of both have been briefed on these proposals and all questions raised have been addressed.

List of Background Documents/Appendices:

Community Impact Assessment – Summary Document

Contact Details

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