



**Report of: Executive Member for Health and Social Care**

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
Executive	2 September 2021	All

<b>Delete as appropriate</b>	<b>Exempt</b>	<b>Non-exempt</b>
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## **SUBJECT: Procurement Strategy for The Single Advocacy Service**

### **1. Synopsis**

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of The Single Advocacy Service in accordance with Rule 2.7 of the Council's Procurement Rules.

This report also seeks pre-tender approval to procure The Single Advocacy Service jointly with the London Borough of Camden.

- 1.2 The Single Advocacy Service will deliver a single point of access to a range of statutory and non-statutory advocacy functions in Islington (see 3.1). The service will support vulnerable adults aged 16+ in Islington, as well as residents outside of the borough where Islington retains statutory responsibility for the provision of these services.

### **2. Recommendations**

- 2.1 To approve the procurement strategy for The Single Advocacy Service as outlined in this report.
- 2.2 To delegate authority to award the contract to the Corporate Director of People in consultation with the Executive Member for Health and Social Care.
- 2.3 To agree that this service will be jointly procured with the London Borough of Camden.

### 3. Background

3.1 The Single Advocacy Service was first commissioned in August 2016, at which point it unified several fragmented advocacy functions under a new, integrated model. It has an annual budget of £417,000.

The service provides a single gateway into advocacy services for vulnerable residents aged 16+, and for residents outside the borough where Islington retains statutory responsibility for their provision. The service delivers several functions including:

- Statutory Independent Mental Capacity Advocacy (IMCA)
- Statutory Independent Mental Health Advocacy (IMHA)
- Statutory Independent Advocacy under the Care Act (ICSA)
- Statutory Deprivation of Liberty Standards (DoLS) conducted by Relevant Person's Representative (RPR)
- Independent NHS Complaints Advocacy (ICAS)
- Information, Advice and Guidance (IAG) meeting obligations under section 4 of the Care Act, outwardly advertised as "Community Advocacy"

The current contract is primarily provided by a Lead Provider, who sub-contract an element of the "Community Advocacy" function addressing IAG needs of residents with a Learning Disability to a Third Sector provider.

Our intention in re-commissioning our advocacy services is to retain our integrated model, in which our statutory advocacy functions are provided through a single "front door" function owned by a single provider. This model has proven successful in Islington and is increasingly being replicated across London and the country more broadly. This model of service allows for a "no wrong front door" approach to referrals, a reduction in failure demand, and a seamless experience of the service across various advocacy functions.

In re-commissioning our Single Advocacy Service, we also aim to retain the "Community Advocacy" function of the current service.

Whilst not providing "advocacy" under the legislative understanding of the term, this function nevertheless provides an effective early intervention and prevention service for residents who often fall in-between services and require support to self-advocate.

However, we will see to work closely with relevant stakeholders to ensure that the provision of this IAG focuses on areas of significant added value; utilises volunteers; and is embedded into the sector of similar IAG services in the borough to ensure effective, timely and relevant signposting.

We will also account for several upcoming changes to legislation and codes of practice that will impact on advocacy services, including:

- The Mental Capacity (Amendment) Act, which will replace the DoLS with Liberty Protection Safeguards (LPS), the plans for implementing which are under way in Islington in advance of its expected mobilisation in April 2022. Future arrangements under this amended legislation include having the LPS function undertaken by an IMHA rather than an RPR; a wider application that (as under the DoLS) hospitals and care homes; reduction of the age criteria to 16+; and inclusion

of hospitals, Clinical Commissioning Groups and care homes as potential Authorising Bodies (replacing the current role of the local authority as the Responsible Body).

- The introduction of a revised Mental Capacity Act Code of Practice, replacing the current separate codes of practice for the Mental Capacity Act and DoLS. This is due to be published in Spring 2021, and may be supported with specific funding streams to support its implementation.
- Proposed legislative reforms to the Mental Health Act, expected to include clearer, stronger detention criteria and give patients more substantive rights to challenge detention.

Professionals engaged in this procurement to date have indicated that these changes will lead to a greater volume of referrals for advocacy services as these changes are implemented, particularly given the wider scope for providing IMCA support in the community under the LPS. For this reason, we are not looking to generate budget efficiencies from this procurement.

In commissioning a new Single Advocacy Service we will address council priorities, including:

- **Social Value:** This will include work to develop a volunteer bank, particularly in our commissioning of IAG under this contract, and continuing to encourage smaller, local providers to be involved in the delivery of this service via sub-contractual partnerships. We will also require providers to develop and present their own ideas for providing significant Social Value through the tender process for this contract.
- **Challenging Inequalities:** This will include delivering bespoke advocacy training to smaller local organisations enabling the borough's Third Sector to more readily self-advocate for its service users, commissioning bespoke projects exploring advocacy issues relating to marginalised groups (e.g. homeless residents, non-English-speaking residents, BME residents), and utilising learning from recent Safeguarding Adults Reviews.
- **Fairer Together:** This will include more closely involving our advocacy service and utilising its relationships with service users and the third sector in conversations surrounding the design and delivery of statutory services (e.g. integrated locality teams, the Adult Social Care Policy Group).

In commissioning a new Single Advocacy Service, we will pursue a joint procurement with the London Borough of Camden.

Several options were discussed departmentally – for more information see 3.4. There is a preferred option primarily because of the similarities in the commissioning intentions of the two boroughs, who seek to either retain (Islington) or commission a new (Camden) an integrated service model of advocacy functions. Islington and Camden currently commission the same number of hours (10,000) of advocacy per year.

Islington and Camden also share a Mental Health Foundation Trust, and from engagement with stakeholders within the Trust there is support for a joint procurement across the two boroughs. This would reduce failure demand, in which a service user of the Trust is referred to the incorrect borough's advocacy service, as well as facilitate the changes to responsible bodies due to be implemented by the introduction of the LPS.

In addition, Islington and Camden share a commitment to Social Value, to sub-contracted elements in advocacy provision, and to the use of volunteers.

A larger service encompassing both boroughs will allow for greater flexibility in managing fluctuations in referrals for advocacy across the two boroughs. This is particularly beneficial when accounting for the introduction of the LPS, after which we expect a greater number of referrals from a greater number of referring bodies.

Islington will continue to have intensive oversight of our advocacy service following the implementation of this contract, via joint borough and borough specific contract monitoring meetings.

Commissioners in Islington will take part in joint contract monitoring meetings with the successful provider(s) and commissioners in Camden, discussing trends across the two boroughs and facilitating joint improvements or changes where necessary. However commissioners in Islington will also conduct borough-specific meetings with the successful provider(s) and Islington-specific professional stakeholders to assess both the performance of our advocacy services and referring bodies.

### 3.2 Estimated value

The estimated maximum value of this contract will be £5,838,000 over a maximum seven year period. As this funding will be split 50/50 between Islington and Camden, the total maximum value of this contract for Islington will be £2,919,000. This is based on a maximum annual cost of £834,000, with each borough contributing a maximum of circa £417,000 per annum. In Islington, the annual budget is inclusive of a small contribution of £30,000 per annum from the CCG, paid through the section 75 agreement. The continuation of this contribution has been agreed at the CCG's section 75 meeting.

This will be advertised as a forty eight month contract with two optional extensions, of 24 months and twelve months respectively.

The proposed annual budget for the procurement is the same as the current annual contract value for this service. As the procurement of this service dovetails with several legislative changes that will impact our advocacy provision, we recommend ring-fencing this service from considerations relating to budget efficiencies. This accounts for the fact that demand for Independent Advocacy under the LPS is still unknown, but modelling suggests demand will increase.

Any percentage reduction in the budget would impact on the ability of the borough to meet its statutory duties for the provision of advocacy.

Benchmarking has revealed that spend on our advocacy services is in line with several of our neighbouring boroughs.

### 3.3 Timetable

The timetable for the Islington internal governance sign-off for the procurement of this service is:

<b>Key milestone</b>	<b>Date</b>
Approval of the strategy by the Executive	2 September 2021
Contract notice advertised	November 2021
Evaluation	January 2022
Contract award	February 2022
Mobilisation period	February 2022 – May 2022
Contract start date	1 June 2022

The current Islington contract for Single Advocacy Service expires on 31 May 2022, meaning that the new contract must be in place for a start date of 1 June 2022.

The current Camden contracts for advocacy services expire on 31 September 2022, meaning that their contractual arrangements must be in place for a start date of 1 October 2022.

We have so far consulted with several colleagues in the statutory sectors including Strategy and Commissioning (LBI), Adult Social Care operations (LBI, and including the Islington Learning Disabilities Partnership), the NCL CCG, The Whittington Hospital, the Mental Health Foundation Trust, our providers, and advocacy commissioners across the geographic patch of the NCL (Barnet, Camden, Enfield, Haringey and Islington).

We have also consulted with Third Sector organisations including national providers of advocacy services, mental health services, older peoples' services, services for residents with learning disabilities, Healthwatch, local BAME organisations, and providers in the homelessness sector.

We will continue to engage with these stakeholders and others in advance of the procurement.

### 3.4 Options appraisal

Four procurement options have been explored with an options appraisal. A precis of these options is set out below.

#### **Option 3 is the recommended option.**

<b>Option</b>	<b>Benefits</b>	<b>Drawbacks</b>
1. In-sourcing this service	N/A	These services cannot be in-sourced as they provide services that are explicitly commissioned to be independent from the Council and other statutory services.
2. Procuring as a single borough	Retention of integrated model. Existing, strong local partnerships in place. Understanding of local VCS. Understanding of localised interpretations of legislation.	Fragmented working arrangements between Mental Health Foundation Trust and advocacy provision (IMHA) and hospitals and advocacy provisions (IMCA). Limited capacity to respond to surges in demand.
3. Jointly procuring the service with the London Borough of Camden	Shared commissioning intentions via a vis integrated model.	Staggered implementation process across June-October.

	<p>Shared commissioning intentions vis a vis "Community Advocacy" IAG function.</p> <p>Feasibility of "commissioning in" autonomy between boroughs' advocacy functions to retain different approaches and keep strong local relationships intact.</p> <p>Greater potential to respond to fluctuations in demand.</p> <p>Shared ambitions vis a vis Social Value, volunteering.</p> <p>Non-cashable benefits for Mental Health Foundation Trust through making IMHA referrals more efficient.</p>	
4. Jointly procuring this service with Camden Council and Haringey Council	<p>Feasible to "commission in" autonomy between boroughs' advocacy functions to retain different approaches and keep strong local relationships.</p> <p>Provider will have greater potential to respond to fluctuations in demand, with a more substantial workforce.</p> <p>Facilitation of non-cashable benefits for hospitals, particularly The Whittington, by making IMCA referrals more efficient – "no wrong front door".</p>	<p>Staggered implementation process across June – November 2022.</p> <p>Possible that Haringey will extend contract to November 2023.</p> <p>Haringey do not necessarily share commissioning intentions with regards to integration of advocacy provisions.</p> <p>Haringey do not necessarily share commissioning intentions with regards to Community Advocacy function.</p> <p>As Camden and Islington commission more hours of advocacy per annum, arrangements would need to be put in place to ensure these boroughs do not subsidise others' advocacy functions.</p>
5. Jointly procuring this service with all other NCL boroughs	<p>Opportunity for budget savings to be achieved via economies of scale.</p> <p>Alignment of advocacy functions with NCL footprint.</p> <p>Provider will have greater potential to respond to fluctuations in demand, with a more substantial workforce.</p> <p>Conducive to improved understanding of advocacy provision across the NCL.</p> <p>Facilitation of non-cashable benefits for C&amp;I by making IMHA referrals more efficient – "no wrong front door".</p> <p>Facilitation of non-cashable benefits for hospitals by making IMCA referrals more efficient – "no wrong front door".</p>	<p>Staggered implementation process across June – November 2022.</p> <p>Possible that Barnet, Enfield and Haringey will extend contract to November 2023.</p> <p>Loss of localised relationships with VCS.</p> <p>Loss of localised interpretation of legislation, though this could be considered during procurement, especially with regards to Care Act advocacy.</p> <p>Misalignment of boroughs' commissioning intentions.</p> <p>As Camden and Islington commission more hours of advocacy per annum, arrangements would need to be put in place to ensure these boroughs do not</p>

		<p>subsidise others' advocacy functions. Budget savings could not come to fruition due to expected increase in referrals to advocacy services. Potential risk of losing strong local relationships with VCS.</p> <p>Similar exercises across Barnet, Enfield and Haringey failed to generate budget savings. Potential for loss of oversight of Islington-specific advocacy performance, trends and analysis, as expectation would be that procurement and monitoring would be completed by a Lead Borough.</p>
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### 3.5 Key Considerations

In addition to the local economic benefits of the service being provided in Islington, social benefits clauses will be in place with an emphasis on the following:

- The service being part of the fabric of the local community, supporting and encouraging residents of all demographics, with a particular focus in increasing access to marginalised groups and partnership with smaller, hyper-local organisations;
- Engagement with VCS services, including exploring sub-contracting opportunities via market warming, market engagement and networking events;
- Supporting smaller organisations in the borough to develop equal partnerships and positive relationships with the service;
- Utilising volunteers.

The following additional opportunities for Social Value have been identified and will be undertaken as part of the new contract:

- Supporting and promoting purchasing from the local supply chain where possible;
- Supporting and encouraging the adoption of specific workplace health initiatives;
- Providing voluntary and employment opportunities to Islington residents, including through Islington's in-house employment portal;
- Evidencing progression and training opportunities for staff, implementation of equality and diversity policies, and enabling security of employment for the workforce.

London Living Wage will be a condition of this contract where permitted by law.

The service will implement a robust performance-monitoring framework so that value for money, quality, outcomes and cost effectiveness can be assessed. This will include activity levels, and evidence of outcomes achieved as measured against Key Performance Indicators and outcomes.

Regular contract monitoring reviews will take place and the provider will submit information on the service on a quarterly basis. This process will allow for continuous improvement and service development. The service specification will include provisions to ensure that the provider offers continuous improvement against delivery targets, and works with commissioners and service users to co-produce a service where innovations can be quickly implemented.

TUPE will apply for this procurement.

### 3.6 Evaluation

The tender will be conducted in one stage, known as the Open Procedure, as the tender is 'open' to all organisations who express an interest. The Open Procedure includes minimum requirements which organisations must meet before the rest of their tender is evaluated.

Tenders will be evaluated on the basis of the price and ability to deliver the contract as set out in the evaluation criteria below. Commissioners intend to include service users, experts by experience and/or family carers in the evaluation process.

The proposed headline evaluation criteria are below. As the procurement is a joint exercise with Camden, the questions below each headline criteria are subject to agreement with commissioning colleagues in Camden, and other key stakeholders.

Cost – 30%

Quality – 70%, including:

- 30% Service Model
- 20% Social Value
- 10% Implementation
- 10% Co-Production

A high quality component is proposed because of a number of factors, including:

- The particularly sensitive nature of the service and vulnerable service users involved.
- The need to secure suitably qualified advocates to act in the statutory advocacy roles and the limited amount of current supply in this respect.

### 3.7 Business Risks

Both boroughs have nuanced differences in their interpretation of the Care Act and, therefore, the manner in which both boroughs utilise Care Act Advocacy. However, commissioners across Islington and Camden are confident that these differences can be accounted during the procurement, in specifying that while the boroughs share a "front door" each borough will retain a bespoke team of independent advocates.

Another risk relates to contract end dates, as the boroughs' contract end dates are not aligned, with Camden's contracts for advocacy lined up to end several months after Islington (in September 2022, while Islington contracts end May 2022). However, Camden

colleagues have agreed that Camden commissioners will partake in the procurement with Islington and join the service in October 2022.

3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

<b>Relevant information</b>	<b>Information/section in report</b>
1 Nature of the service	<p>The Single Advocacy Service will deliver a single point of access to a range of statutory and non-statutory advocacy functions in Islington. The service currently provides this in Islington; this procurement will aim to implement this approach across Islington and Camden.</p> <p>The service will support vulnerable residents aged 16+ in Islington, as well as residents outside of the borough where Islington retains statutory responsibility for the provision of these services.</p> <p>See paragraph 3.1.</p>
2 Estimated value	<p>The estimated value per year is a maximum of £834,000, with a £417,000 contribution from Islington.</p> <p>The agreement is proposed to run for a period of 4 years with an optional extension of 2 years, then an optional extension of 1 year.</p> <p>See paragraph 3.2.</p>
3 Timetable	<p>Advert: November 2021            Evaluation: January 2022            Award: February 2022</p> <p>See paragraph 3.3.</p>
4 Options appraisal for tender procedure including consideration of collaboration opportunities	<p>We recommend jointly procuring this service with the London Borough of Camden.</p> <p>See paragraph 3.4.</p>
5 Consideration of:	See paragraph 3.5.

Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	
6 Award criteria	Quality 70% (including 20% social value) Price 30%.  The award criteria price/quality breakdown is more particularly described within the report.  See paragraph 3.6.
7 Any business risks associated with entering the contract	See paragraph 3.7.
8 Any other relevant financial, legal or other considerations.	See paragraph 3.8.

## 4. Implications

### 4.1 Financial implications:

The Single Advocacy Service budget sits within the Adult Social Care Base Budget. The budget for this service for 2021-22 is £417,000.

The proposed cost of this new contract will be £417,000 per annum, therefore this does not create a budgetary pressure on the Adult Social Care budget.

The length of the contract is four years with an optional extension of two years, then an optional extension of one year. The estimated total cost of the contract for Islington Council will be £2,919,000.

Payment of London Living Wage is a requirement of the contract and should not result in any additional costs.

Implications provided by: Kelly Ward (Senior Accountant) 22-06-2021

### 4.2 Legal Implications:

- a) The services referred to in the body of this Report are provided pursuant to the Council's statutory duties under the Mental Health Act 1983, the Mental Capacity Act 2005, the Health and Social Care Act 2012 and the Care Act 2014.
- b) Procurement Rule 18 requires the Executive to grant specific delegated authority to the Corporate Director to procure and award the contract in this case, as the revenue spend (total contract value over its maximum life of 5+2+1 years) is above £2m.
- c) The combined total contract value (Islington and Camden) is above the "Light Touch" threshold and publication of the recommended Open Procedure procurement in UK

*Find A Tender* and *Contracts Finder* will be required to comply with the Public Contracts Regulations 2015/2020.

- d) Legal Services will provide advice and support for the procurement process and on the form of the joint contract between Islington & Camden and the successful bidder.

#### **4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:**

An environmental impact assessment has been conducted on the proposed contract and identified no significant impacts. Minor impacts associated with staff travel and office - based work include vehicular emissions, congestion, energy and water usage, procurement and waste generation, all of which should be minimised by the contractor.

#### **4.4 Resident Impact Assessment:**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding. A resident impact assessment is appended to this report.

### **5. Reason for recommendations**

- 5.1 We recommend approving this procurement strategy for the Single Advocacy Service as outlined in 3.1. This includes approving a joint procurement with Camden for the reasons outlined in 3.1 and 3.4.

This will allow Islington to fulfil its statutory obligations to provide advocacy provisions under the Mental Health Act 1983, the Mental Capacity Act 2005, the Health and Social Care Act 2012, and the Care Act 2014.

## Appendices

- Resident Impact Assessment

## Background papers:

- None

Final report clearance:

## Signed by:



2 August 2021

Executive Member for Health and Social Care

Date

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