

**Key Decision Report of the Corporate Director for Adult Social Care**

<b>Officer Key Decision</b>	<b>Date: 4 January 2022</b>	<b>Ward(s): All</b>
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<b>Delete as appropriate</b>	Exempt	Non-exempt
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**SUBJECT: Extension to contract for The Single Advocacy Service****1. Synopsis**

- 1.1 This report seeks approval to extend the contract arrangement currently in place for the provision of The Single Advocacy Service by a further four months.

The current contract arrangement was approved in March 2021 and allowed for an extension to the current contract from 31 March 2021 until 31 May 2022.

- 1.2 Subject to approval to apply a further four-month contract extension to this contract the contract end date will be 30 September 2022.
- 1.3 An Executive decision was taken on 02 September 2021 that Islington will procure a new advocacy service in conjunction with Camden Council.

Applying a further extension to the current Islington Single Advocacy Service contract by four months will align the contract end date with the Camden Advocacy Service's contract end date.

This will support ensuring that a robust joint competitive procurement with Camden can be undertaken, prevent a staggered implementation of a new contract, which will ensure that a new contract for the joint Camden and Islington Advocacy Service will be in place from 01 October 2022.

The decision to award a new contract will be taken by the Executive in July 2022 following a robust competitive tender exercise.

## **2. Recommendations**

- 2.1 To approve the extension of the current contract arrangement to The Single Advocacy Service until 30 September 2022.
- 2.2 To note that the overall value of the contract extension from 01 April 2021 to 30 September 2022 will be £629,700.

## **3. Date the decision is to be taken:**

4 January 2022

## **4. Background**

- 4.1 The Single Advocacy Service provides a number of statutory advocacy functions including Independent Mental Capacity Advocacy and Deprivation of Liberty Safeguards Relevant Person's Representatives, Independent Mental Health Advocacy, Independent Care Act Advocacy, and Independent NHS Complaints Advocacy.

The service is a single point of contact for all referrals for statutory advocacy by the Council and authorised partners. The service empowers residents to participate in decisions about their care and treatment, understand their rights and to be supported in the exercising of their rights.

The contract for the service started on 01 April 2016 and was due to end on 31 March 2021.

Due to the on-going COVID-19 pandemic and subsequent capacity issues, between January 2021 and March 2021, a 14-month contract extension was agreed to allow for procurement preparation and joint procurement options be explored with other boroughs in the North Central London region.

In September 2021, the Executive agreed to a Procurement Strategy proposing a joint procurement of a new Advocacy Service in partnership between Islington and Camden.

The implementation of this contract would be staggered, as both boroughs' contracts are due to come to an end at different times. The Islington contract is due to end on 31 May 2022 and the Camden contract is due to end on 30 September 2022.

We are now seeking permission to extend the Islington Single Advocacy Service contract by a further four months, until 30 September 2022. This will allow:

- An aligned start date for the joint Camden and Islington Integrated Advocacy Service contract of 01 October 2022. This will reduce risks associated with a staggered implementation that have been raised by providers during market engagement, with providers specifically raising concerns that staggered implementation may affect staff retention and create more complex TUPE related issues.
- A more proportionate tender timetable will be achieved; due to the complexity in aligning governance from two councils, there have been delays. This means that under the current tender timetable the tender would be open to the market for only 30 days. As the annual value of this contract across both boroughs will be £834,000,

commissioners recommend a longer tender period to facilitate ensuring that the market has appropriate time to submit bids of a high quality.

- A proportionate implementation process; TUPE is a probability for the implementation of this contract, and legislative changes such as the introduction of Liberty Protection Safeguards are imminent. A longer implementation period would allow the embedding of these changes into the implementation in a manageable way.

To ensure appropriate governance is followed, the decision for the award of the new contract will be taken by the Executive.

#### 4.2 Estimated Value

The annual value of the current Single Advocacy Service contract is £419,800. The budget for the service sits within the Adult Social Care Base Budget.

The value of the original 14-month contract extension from April 2021 to May 2022 was £489,667. The value of the requested extension of a further four months is £139,933. Therefore, the total overall value of the original contract extension including the proposed extension period of four months will be £629,700.

The costs of these extensions are a continuation of the current agreed cost of the service. These extensions therefore do not create a budgetary pressure on the Adult Social Care budget.

#### 4.3 Timetable

Extending the current contract by a further four months will mean that the current Single Advocacy Contract will expire on 30 September 2022.

This extension will facilitate a more proportionate timetable as set out in the table below:

<b>Key milestone</b>	<b>Date</b>
Officer Key Decision approval of contract extension	December 2021
Contract notice advertised	February 2022
Tender close	April 2022
Evaluation	April 2022 - May
Contract award	May 2022 – July 2022
Contract start date	October 2022

#### 4.4 Options appraisal

At this juncture two options are available moving forward for this procurement:

- Option 1: To continue with the current contract deadline and procurement timetable.

- Option 2: To approve the contract extension to the Single Advocacy Service contract until September 2022, amend the timeframe accordingly, and implement the new service across Islington and Camden at the same time.

The recommended option is option 2; to approve the contract extension to the Single Advocacy Service contract until 30 September 2022. The table below sets out the high level benefits and risks of for each of these options:

<b>Option</b>	<b>Benefits</b>	<b>Risks</b>
Option 1: Continue with the current contract deadline	Timely procurement.  Avoid further extension of the current contract.	Undesirably short tender which may impact on the quality of bids received.  Staggered timetable for implementation of the new joint contract with associated risks.  Increased risk regarding staff retention, TUPE and recruitment implications for the new contract.
Option 2: To approve the contract extension	Proportionate tender and implementation processes.  Seamless implementation timeframe across both boroughs.	See section 5.2 for legal risks and mitigations.

#### 4.5 Key Considerations

TUPE will apply during the implementation phase of the upcoming procurement. Extending the procurement timetable is essential to facilitating a smooth transition to this end.

Islington and Camden have agreed that Social Value will form 20% of the quality criteria for the upcoming procurement.

The upcoming procurement will have a quality/cost split of 70/30. Further details of this split are outlined in the Procurement Strategy.

The decision to award the new contract will be an Executive decision, due in July 2022.

#### 4.6 Business Risks

The timeframe for this re-procurement is behind schedule due to numerous factors, including those outlined in this report. Should approval to further extend the current contract term until September 2022 not be approved it should be noted that the short time frame available to complete this tender may result in reduced market interest in bidding and on the quality of bids received.

Commissioners have been undertaking rigorous market engagement with providers of advocacy services in preparing for the joint re-procurement of these services in Islington and Camden. The benefits of a joint procurement are outlined in the original Procurement Strategy.

Providers are aware of an upcoming procurement opportunity, and a Prior Information Notice (PIN) is due to be published to reiterate our intention to invite providers to tender in the near future.

The extension to this arrangement is in part proposed in response to feedback from providers regarding the risks relating to tight tender and implementation processes, and a staggered implementation process. The latter of these risks was originally highlighted in the Procurement Strategy.

These risks are also partially mitigated by ongoing market engagement and publishing a PIN.

- 4.7 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.
- 4.8 The following relevant information is required to be specifically approved 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	The Single Advocacy Service delivers a single point of access to a range of statutory and non-statutory advocacy functions in Islington.  The service currently provides this in Islington; we intend to jointly procure a service that will provide these services across Islington and Camden.  See paragraph 4.1
2 Estimated value	As outlined in this report.  See paragraph 4.2
3 Timetable	As outlined in this report.  See paragraph 4.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	As outlined in this report.  See paragraph 4.4

5 Key considerations	As outlined in this report.  See paragraph 4.5
6 Award criteria	N/A
7 Any business risks associated with entering the contract	As outlined in this report.  See paragraph 4.6
8 Any other relevant financial, legal or other considerations.	See section 5.

## 5. Implications

### 5.1 Financial implications:

The Single Advocacy Service budget sits within the Adult Social Care Base Budget. The budget for this service is £419,800 per annum.

The proposed cost of this extension will be £139,933 for the four-month period. This is a continuation of the current cost and therefore does not create a budgetary pressure on the Adult Social Care budget.

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

Implications provided by: Charlotte Brown (Finance Manager), 3<sup>rd</sup> December 2021

### 5.2 Legal Implications:

- a) The Commissioning Officer previously obtained authority to extend the existing contract for the Single Advocacy Service for a further 14 months to 31 May 2022 at a cost of £489,745. The existing contract expired on 31 March 2021 and there is no provision in the contract for an extension beyond that date.
- b) This proposed second extension to 30<sup>th</sup> September 2022 is outside the modifications permitted by regulation 72 of the Public Contracts Regulations 2015 and therefore the extension amounts in law to a new contract for which a procurement exercise would normally be required.
- c) The services provided under the contract are 'light touch' services for the purposes of the Public Contracts Regulations 2015. The cost of this extension plus the previous extension (a total of £629,669) is below the financial threshold (£663,540) for light touch services and therefore the extension does not have to be advertised in the Find a Tender Service. However, contracts which may be of interest to organisations / persons would normally require some form of advertising in order to satisfy the principles of equal treatment / non-discrimination and the requirement to act in a transparent and proportionate manner (regulation 18).

- d) The provisions of the Council's Procurement Rules would apply and require competitive tendering or call off from a framework agreement to which the council has access. However, Procurement Rule 3 enables this requirement may be waived for good operational and financial reasons. The reasons set out in the report would reasonably justify the grant of a waiver. However, the grant of a waiver is susceptible to a legal challenge which is considered a medium to high risk in this case because of the length and value of the two extensions. That risk can be mitigated to an extent by ensuring that the procurement process for a new contract is commenced promptly.
- e) The decision to extend the contract can be taken under delegated authority by the Corporate Director.

In addition to this Key Decision Report a Waiver Request Report will also need to be completed and signed off by Strategic Procurement, Finance and Legal, pursuant to Procurement Rule 3.

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

An Environmental Impact Assessment has been completed.

### **5.4 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.

An Impact Assessment has been completed for this contract, finding no detrimental impact for residents.

## **6. Reasons for the decision:**

- 6.1 Extending the current contract arrangement for The Single Advocacy Service will allow for a more proportionate tender and implementation timeframe to be achieved. This will facilitate a smoother implementation of the new service by aligning contract start dates for the new service across both Islington and Camden.

## **7. Record of the decision:**

- 7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

**Signed by:**



Corporate Director Adult Social Care

Date 4 January 2022

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