

Report to Cabinet

3 November 2021

Subject:	Procurement of Best Interest Assessor Services
Cabinet Member:	Adults, Social Care and Health Councillor Suzanne Hartwell
Director:	Rashpal Bishop Director of Adult Social Care
Key Decision:	Yes Request for decision on future of consultancy service for Best Interest Assessors of vulnerable adults requiring legal assessments around Deprivation of Liberty Safeguards (DoLS)
Contact Officer:	Suki Sandhu, Operations Manager, Safeguarding and DoLS Team suki_sandhu@sandwell.gov.uk

1 Recommendations

- 1.1 That approval be given to procure Best Interest Assessor services via the call-off agreement the Council has in place with Hays Specialist Recruitment Limited, since January 2018, under the provisions of the Birmingham City Council Managed Service Contract for the Provision of Temporary Agency Workers.
- 1.2 That the Director Law and Governance and Monitoring Officer be authorised to enter into appropriate contracts with Hays Specialist Recruitment Limited as a call off contract under the provisions of the Birmingham City Council Managed Service Contract for the Provision of Temporary Agency Workers.



2 Reasons for Recommendations

- 2.1 The reasons for the recommendations is for the Sandwell Deprivation of Liberty Safeguards service, to be compliant with the procurement rules and to align the recruitment of Best Interest Assessors with the Hays Framework.
- 2.2 The Sandwell DoLS (Deprivation of Liberty Safeguards) service has outsourced its Best Interest Assessors directly with the recruitment agency and this falls outside the formal procurement arrangements.
- 2.3 There is a need to ensure the procurement of Best Interest Assessors meet Procurement Regulations, facilitate market testing and fair competition for this service.
- 2.4 The Council has statutory responsibilities under the provision of the Mental Capacity Act (2005) to complete formal Deprivation of Liberty Safeguarding (DoLS) best interest assessments when a person who lacks mental capacity to consent to their care or treatment is being deprived of their liberty in a care home or hospital to keep them safe from harm.
- 2.5 In order to meet those responsibilities, the Council needs to appoint Best Interest Assessors on an as and when required basis.
- 2.6 There is a pre-existing contract for provision of temporary staff between Hays and Birmingham City Council, which is available to Sandwell MBC. Liquid Personnel are not the master vendor within this arrangement. Hays can source Best Interest Assessors and undertake all necessary employment checks required for this role.

3 How does this deliver objectives of the Corporate Plan?

	People live well and age well – making sure that when we have people in receipt of care and support in care homes/hospital, that we have the legal framework in place to ensure any identified restriction and controls are in place regarding their deprivation of liberty.
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4 Context and Key Issues

- 4.1 The Council has legal duties as part of the Mental Capacity Act (2005) to complete formal Deprivation of Liberty Safeguarding (DoLS) best interest assessments. The Deprivation of Liberty Safeguards 2009 (DoLS) is a legal procedure used when a person who lacks mental capacity to consent to their care or treatment is being deprived of their liberty in a care home or hospital to keep them safe from harm.

Where a deprivation is identified, the Managing Authority (care home or hospital), must apply to the Local Authority as the Supervisory Body for authorisation of the deprivation.

- 4.2 1,572 DoLS applications were received in the last financial year and completed by the current Best Interest Assessors resource.
- 4.3 The DoLS service currently have 10 Best Interest Assessors employed directly via the recruitment agency and they have their individual contract with the recruitment agency.
- 4.4 The Best Interest Assessors who carry out the assessments for Sandwell have been sourced through Liquid Personnel (LP). As LP are not Sandwell's agency supplier, we are sourcing workers outside of the agency contrafactual arrangements in place.
- 4.5 Sandwell have a contract with Hays (Birmingham City Council Framework) as the master vendor in sourcing all our agency workers. The current arrangements for sourcing Best Interest Assessors are not compliant with procurement rules.
- 4.6 The Local Authority recognises that there is a need to formalise this arrangement in addition to the need of retaining the existing resource for the consistency of the service.
- 4.7 As LP are a second tier agency of Hays, both agencies have agreed that all Best Interest Assessors will be sourced directly through Hays.



- 4.8 The DoLS service currently has £370,700 allocated annual budget for 2021-22. £375 is the cost per assessment. There will be a 2.5% additional cost to the DoLS service in moving forward with aligning the outsourced resource with the Hays Framework. Hence, charge rate of £384.62 per assessment.
- 4.9 In 2020-21 the Local Authority received 1,583 DoLS assessment requests of which, 1,481 assessments were completed. The difference in the current assessment rate of £375 per assessment, to the new assessment rate of £384.62 per assessment, will generate an annual approximate £14,250 pressure due to the additional assessment cost.
- 4.10 The DoLS Service aims to continue to provide completed Best Interest Assessments, using all reasonable skill, expertise and care as could be expected of a reasonable service provider carrying out similar services.
- 4.11 The framework agreement for provision of temporary/agency workers was let by Birmingham City Council in 2017 and is available to other local authorities to call off. The framework was let in compliance with the Public Contracts Regulations 2015 and offers Sandwell MBC a compliant route to market. The framework agreement is a master agreement whereby Hays Specialist Recruitment Limited supply worker as required either directly or by sourcing across the market; this is an advantage for roles where recruitment is difficult.
- 4.12 The Council has a call off agreement in place with Hays Specialist Recruitment Limited via the Birmingham City Council framework which it can utilise to source Best Interest Assessor services.

5 Alternative Options –

- 5.1 The alternative is for the Local Authority to consider its internal staff to support the Best Interest Assessment work. This option is challenging and not feasible due to the specialist training and qualification required that is currently suspended by many Universities due to efforts in preparation for the new legislation, Liberty Protection Safeguards.



- 5.2 The other alternative is for the Local Authority to continue procuring the Best Interest Assessors directly with the recruitment agency. However, this option is currently presenting its challenges as we are sourcing assessors outside of the Birmingham City Council framework.
- 5.2 Procurement of these services as a single contracting authority has proved difficult because of the strong demand on resources and the level of specialism required. The Council has been procuring services on an ad hoc basis. The proposed call off arrangement with Hays Specialist Recruitment Limited will give greater certainty of availability of resources and a more robust contractual basis for the services.

6 Implications –

<p>Resources:</p>	<p>Financial, staffing, land/building implications – no direct implication for internal staffing as the Best Interest Assessors are outsourced and external staff.</p> <p>The allocated budget to fund this activity in 2021/22 is £370,700. If demand matches that of 2020/21 there will be a significant overspend (£200,000+) which will be managed within overall Adult Social Care resources. If implemented, the proposal will increase costs by 2.5%; creating an additional pressure on the budget for this area.</p>
<p>Legal and Governance:</p>	<p>Recruitment of Best Interest Assessors from Hays Specialist Recruitment Limited via the Birmingham City Council framework agreement for provision of temporary workers is compliant with the Council's Procurement and Contract Procedure Rules and with Public Contracts Regulations 2015.</p> <p>The Council continues to deliver on its legal duties as part of the Mental Capacity Act (2005) to complete formal Deprivation of Liberty Safeguarding (DoLS) best interest assessments.</p>
<p>Risk:</p>	<p>Risk implications, including any mitigating measures planned/taken, health and safety, insurance implications – No significant risks have been identified. There will be administrative transition for the Best Interest Assessors and the management of</p>



	<p>their timesheets however, this is not a significant risk. The new framework will make sure that there is sufficient contract indemnities and insurances available so that the risk is adequately transferred under the contractual arrangements.</p> <p>The given recommendations present no risk in relation to the forthcoming legislation, Liberty Protection Safeguards.</p>
Equality:	<p>Implications for equality (all aspects and characteristics) including how meeting Equality Duty, equality impact assessments – high level impact assessment completed, does not require a detailed assessment.</p>
Health and Wellbeing:	<p>Implications of the proposals on health and wellbeing of our communities – we will ensure that vulnerable adults have the necessary and proportionate restriction in place to promote their wellbeing.</p>
Social Value	<p>Implications for social value and how the proposals are meeting this (for e.g. employment of local traders, young people) – the expectation is for Hays to continue to support the recruitment of local resource to complete the work in the local communities. There will be arrangements in place for contractual monitoring and reviews and auditing around the quality of completed assessments and work.</p>

7. Appendices

Appendix A - Variation Agreement

