

Executive Decision taken under Cabinet Delegated Authority

Subject:	Advocacy Services – Enactment to Award Contract
Decision to be taken by:	Interim Director – Adult Social Care, Katharine Willmette
Lead Director:	Director – Adult Social Care, Katharine Willmette
Date of Decision:	11 February 2021
Reason for Urgency:	The decision is to enact the Cabinet decision to procure and award a contract to the successful bidder in the Advocacy Services Tender. Original recommendations and approval documentation from Cabinet (Key Decision on 9 September 2020 – min reference 09/09/20) are attached with this report in the appendix.
Lead Officer:	Commissioning Officer, Beverley Stevens

1 Recommendations

That the Director – Prevention and Protection award a contract to the successful bidder for the 4 Advocacy services set out in the cabinet report dated 9 September 2020

The preferred provider is POWHER and the contract to be awarded will be for the period 1 April 2021 to 31 March 2023, with the option to extend for a year apart from the Generic Advocacy Service will be reviewed in the first year of the contract and the duration will be 1 April 2021 to 31 March 2022, with two options to extend for a further year.


2 Reasons for Recommendations

- 2.1 This report seeks approval to enact and award the contract in relation to the recent retender for the Advocacy Services, to the current contractor, to replace the existing contract which expires in March 2021, with no option to extend.



- 2.2 Cabinet approved the procurement of the contract on 9 September 2020 – See Cabinet report attached to this report.
- 2.2 Following completion of the procurement exercise, the current contractor, Powher, was the only bidder but still achieved a score sufficient to be awarded the contract.
- 2.3 Although less than three bids were received Advocacy Services are of a specialist nature and there is a limited market of providers at local and national level, so an exemption to the Council’s Procurement and Contract Procedure Rules 2018-2019 was approved by Cabinet to enable the contract to be awarded to the successful bidder.

3 How does this deliver objectives of the Corporate Plan?

	<p>People live well and age well - Advocacy services have an important role in ensuring the views of vulnerable people are heard. This contributes to improved quality of life, greater equality of opportunity, adaptability to new challenges, and resilience. Early advocacy intervention helps to prevent crises, or crises worsening, and thus increases the feeling of being supported and respected by service users and contributes to healthier and longer lives and reduced dependence on health and social care services in the longer term.</p>
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4 Context and Key Issues

- 4.1 Cabinet approved the retender of Advocacy Services on 9 September 2020, and they were recently re-procured within one contract.
- 4.2 Details relating to the procurement are listed in contract sign off document – appendix 1. Less than three bids were received. However, the Advocacy Services are of a specialist nature and there is a limited market of providers at local and national level, so an exemption to the Council’s Procurement and Contract Procedure Rules 2018-2019 was approved by Cabinet to enable the contract to be awarded to the successful bidder.



- 4.3 The decision to award the contract will ensure a value for money service over the next two years, and there is sufficient flexibility within the new contract to enable the implementation of any changes because of the introduction of the LPS.
- 4.4 The Contract has been designed to require advocates to be trained and ready to deliver several advocacy services, so that the staff are more responsive to any fluctuations in demand for different services, and so that service users who receive one advocacy service, then need another, are more likely to keep the same advocate.

5 Alternative Options

- 5.1 Options concerning retendering the existing contract were considered – including the option to extend this contract. However, this was discounted because the existing contract was procured using a quotation exercise, and because it has no option to extend.
- 5.2 Awarding the new contract when the existing contract ends on 31 March 2021, will enable the services to continue with minimum disruption. Not awarding the contract following the procurement exercise will create a gap in statutory advocacy provision.

5 Implications

Resources:	<p>The new contract will cost up to £290,149 per year, and the current budget is £291,700.</p> <p>The contract is a block contract and is funded by the Adult Social Care Advocacy budget. The IMHA service is funded using the Better Care Fund.</p> <p>There is no new funding, so the contract will be awarded at existing levels of funding.</p> <p>There are no staffing or land use implications.</p>
Legal:	<p>The Contract was tendered under the Public Contracts Regulations 2015 and in accordance with Sandwell's Procurement and Contract Procedure Rules.</p>




	<p>In relation to the procurement exercise a contract notice was published in the Official Journal of the European Union (OJEU) and on In-tend – the Council’s e-procurement portal - and on the Government’s Contract Finder website.</p> <p>The Services ensure that the Council meets its legal requirements as follows: Mental Capacity Act 2005 and Mental Capacity Amendment Act 2019 for IMCA/IMCA DOLS, Mental Health Act 1983 for IMHA, Health and Social Care Act 2012 for NHS Complaints Advocacy, Care Act 2014 for Care Act Advocacy.</p>
Equality:	<p>An Equality Impact Assessment was completed for the Cabinet Report which identified that, should there be no further reductions in funding from other parts of the Council or its strategic partners, then there is likely to be no adverse impact on protected groups because of the new contract.</p> <p>Service users of some Advocacy services have a higher representation of older adults, people with disabilities and women compared to the Sandwell population, or services are directly targeted at adults lacking mental capacity or are sectioned under the Mental Health Act.</p> <p>These groups of people will benefit from the procurement of the new Contract.</p>
Risk:	<p>If the contract is not approved, the main risks would be:</p> <p>The Council would not meet its statutory requirements to provide advocacy for people with the right to it under Mental Health Act, Mental Capacity Act, Care Act 2014 and Health and Social Care Act – leading to complaints and possible judicial review</p> <p>Halt delivery of advocacy to uphold service user’s legal and human rights. If the contract is not awarded the service users may need to purchase their own employer liability insurance themselves, leading to lower take up of a legally required policy.</p>
Health and Wellbeing:	<p>The Services will provide advocacy to vulnerable people who present with a range of needs and issues, and thus provide</p>



	resolution or best interests decisions, leading to a lessening of stress and improved wellbeing for the service users.
Social Value	The Service supports the Council's Social Value agenda as it supports Sandwell residents and service users to access advocacy to uphold their legal and human rights. The provider employs staff who live locally and work on an agile basis which benefits the environment.

In accordance with the authority delegated to Chief Officers to act on matters within the authority delegated to them under Part 3 of the Council's Constitution, I intend to take the action(s) recommended above.

I ~~do~~/do not have an interest to declare in this matter

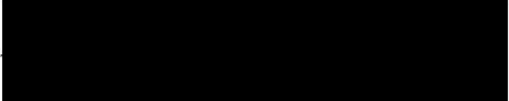


Katharine Willmette
Interim Director of Adult Social Care

Date 12 March 2021

If the Constitution requires the decision to be taken in consultation with another chief officer, the following signature box should also be included

I confirm that I have been consulted on the above proposals and have no objection to their proceeding.



Neil Cox
Director of Business Strategy and Change

Date 12 March 2021



7 Appendices



09 - Consultation and
Procurement of Advor

7.1 Cabinet Report



Minutes of Cabinet 9
September 2020 - Ad

7.2 Cabinet Minutes

7.3 Commissioning Board paper to retender - 7 August 2020 – see page 4 and 5.



Commissioning
Board Breifing Paper -



Item 17a - Minutes of
Meeting 7.8.2020 (JH)

7.4 Commissioning Board Minutes

7.5 See Advocacy Services Table below



Advocacy Services within the Contract	Annual Cost
<p>Care Act Advocacy supports adults who have “substantial difficulty” with fully engaging with assessment, support planning and care review processes, or safeguarding, and do not have an appropriate representative. The Generic Advocacy Service provides issue-based advocacy for Sandwell residents in relation to Children in Care, Housing, Immigration and other issues.</p>	£100,195
<p>The IMHA service is a legal right under the Mental Health Act for any adult who is detained in a secure Mental Health setting and those who have been provisionally discharged from hospital, those on supervised Community Treatment Orders, or voluntary patients who are considering serious medical treatment because of a mental health condition. The Mental Health Inpatient Advocacy Service delivers issue-based advocacy for inpatients with mental health needs, but not sectioned.</p>	£49,531
<p>The IMCA advocacy service supports people over the age of 16 who have been assessed by a doctor or social worker as lacking mental capacity to make a key decision - because of mental health condition, dementia, learning difficulties, a stroke or brain injury, and who do not have an appropriate family member or friend to represent their views.</p> <p>The IMCA/DOLS service is for adults who are subject to a Deprivation of Liberty Safeguards (DOLS) process. There is also a Relevant Paid Persons Representative service - to visit the person regularly, to ensure the DOLS is still appropriate, or raise any concerns.</p>	£99,068
<p>The Independent Complaints Advocacy Service to help people to make a complaint about the National Health Service.</p>	£41,355

8. Background Papers – See above.

