

CABINET PROCUREMENT & INSOURCING COMMITTEE

CONTRACT AWARD REPORT

Title of Report	Advocacy Services - Contract Award
Key Decision No.	AHI S171
CPIC Meeting Date	13 February 2023
Classification	Open with exempt appendix
Ward(s) Affected	All
Cabinet Member	Cllr Kennedy
Key Decision	<p>Yes</p> <hr/> <p>Significant in terms of its effects on communities living or working in an area comprising two or more wards.</p>
Group Director	Helen Woodland Group Director of Adults, Health & Integration
Contract value, <u>both</u> Inclusive of VAT and Exclusive of VAT (for the duration of the contract including extensions)	<p>£2,645,000.00 (exc. VAT - TLC of Contract)</p> <p>£104,707.00 (Contract extension for x2 months)</p>
Contract duration (including extensions e.g. 2 yrs + 1 yr + 1 yr)	3 yrs (+1 yr +1 yr)

1. Cabinet Member's Introduction

- 1.1. The service outlined in this report supports our local residents to advocate for themselves - recognising that there are inequalities in our system which mean that some people are not able to navigate organisational boundaries as effectively as others.
- 1.2. The contractual framework adopted is one which should support local community organisations to grow their organisational capacity and build strong partnerships beyond the lifetime of this contract. There will be a strong onus on the lead provider to develop local organisations and to bring in more organisations to support with wider peer and community advocacy.
- 1.3. The market responded positively to the level of consultation and continual communication and we received high quality bids, that demonstrates the importance of engagement with our local and wider markets.

2. Group Director's Introduction

- 2.1. This report seeks approval for the award of a contract for a Single Lead Provider to deliver advocacy services in the London Borough of Hackney. The Single Lead provider will be a single point of access for a range of statutory and non-statutory advocacy services in Hackney.
- 2.2. Advocacy services in scope of this procurement include:
 - Statutory Independent Care Act Advocacy (ICAA)
 - Statutory Independent Mental Capacity Advocacy (IMCA)
 - Statutory Independent Mental Health Advocacy (IMHA)
 - Statutory Independent Health Complaints Advocacy (IHCAS) under the Health and Social Care Act
 - Non- Statutory Community Advocacy (see Appendix 5 in Business Case)

These services provide an independent voice and empower those who are unable to speak up for themselves to have their voice heard and rights upheld.

- 2.3. This contract will bring together these advocacy provisions through a lead provider under a single contract and thus access point, improving accessibility and joined up service provision and enabling a focus on supporting those with the highest need.
- 2.4. The contract will be let for 3 years, with the option to renew for two extra years. Legislative changes have been factored into the specification for this contract alongside the view of the market that a contract of shorter than 3 years is not financially viable.
- 2.5. The proposed model encourages that local micro, small and medium sized enterprises have a significant role in advocacy provision, providing

the opportunity to develop their roles in order to sustain the local market in the longer term.

3. Recommendations

- 3.1. **To award the contract for the delivery of the Advocacy Service to Provider C for a period of up to 5 years commencing in June 2023 at a maximum cost of £2,645m (an average of £529k per annum). The contract is for 3 years with the option to extend for up to 2 years (1+1).**
- 3.2. **To award an extension to the current providers of the Advocacy Service, for a period of 2 months (April - May 23) at maximum value of £104,707.00 (£97k & £7.7k) . This is to enable the newly appointed bidder to mobilise effectively, without disruption to service delivery.**

4. Related Decisions

- 4.1. The Business Case for the Advocacy Service was taken to Hackney Procurement Board in September 2022.

[Hackney Procurement Board - Advocacy Services Business Case](#)

5. Reason(s) For Decision / Options Appraisal

- 5.1. This report asks CPIC to approve the award of contract for an Advocacy service under a lead provider aimed at supporting vulnerable cohorts who are in need of advocacy services to support their well-being, enable them to have their voices heard and to live their lives in dignity and in accordance with their wishes
- 5.2. This provision will enable the Council to meet its statutory obligations with regard to providing independent advocacy services as required under the relevant Acts referred to in section 2.2.
- 5.3. The contract will deliver advocacy support to meet local need through a range of community providers under the leadership and direction of a lead provider.
- 5.4. The current Advocacy services in the London Borough of Hackney are designed to provide issue-based advocacy and can be categorised as statutory and non-statutory advocacy services.
- 5.5. **Alternative Options (Considered and Rejected)**
- 5.6. The following 5 options were appraised for the future of the Advocacy provision in the borough:

- Alternative Option 1: Insource

- Alternative Option 2: Remain As Is
- Alternative Option 3: Activity Based Contract
- Alternative Option 4: Separate Contracts/Multiple Providers
- Alternative Option 5a: No Non Statutory Advocacy Delivery:
- Alternative Option 5b: Reduced Non Statutory Delivery
- Alternative Option 5c Seek Separate Funding

5.7. Hackney Procurement Board approved the business case for the preferred procurement option in September 2022.

6. Project Progress

6.1 Developments since the Business Case approval

There have been no unforeseen changes or developments since the business case approval.

6.2 Whole Life Costing/Budgets

The budget for the service is held by the Adults Social Care Commiss

Any changes to the funding available will be managed in collaboration with the successful provider to ensure that the service continues to deliver on the key outcomes.

Also as part of the pricing schedule, bidders were asked to prepare costings for spot purchases which would only need to be used due to an unprecedented increase in demand for Statutory Advocacy services.

We have embedded several safeguards and mitigations into the contract such as contract breaks at the end to years 3 and 4 and the requirement to remain within the agreed budget.

It is expected that within the lifetime of this contract, proposed reforms to the Mental Capacity Act in relation to Deprivation of Liberty Safeguards (DoLS) changing to Liberty Protection Safeguards (LPS) and adoption of the government white paper on Mental Health Act reform will see expansion in the right to an advocate.

We canvassed expert opinions on the impact of these reforms, including from the National Development Team for Inclusion (NDTi) and determined that there is a high degree of uncertainty as to what these reforms will translate to in terms of referrals. Some have suggested that there could be a doubling of cases, others potentially a 5 fold increase in IMCA. We have been more conservative in our estimates and are building in flexibility within the contract to be able to adapt to changes in demand as reforms are implemented.

The lead provider will sub-contract all 'non-statutory' advocacy casework to the Network. This will support local sustainability, reflect the diversity of Hackney and the needs of its residents, allow access to culturally

appropriate advocacy whilst building capacity and resilience into the local system.

The funding for non statutory advocacy will be tapered down by 60% over the life of the contract. The impact is expected to be mitigated by both the increased capacity in the local system allowing community organisations to self fund or draw upon external funding and also the move towards alternative forms of advocacy (citizen, peer, group, self etc) becoming established and able to meet the needs of residents.

This report also requests a 2 month extension to the existing service contracts until the end of May 2023 at a maximum total cost of £104,707 (£97k & £7.7k) This extension will ensure continuity of service for users and a smooth transition to the new service.

The new contract model sees 2 current contracts joined together as described in the business cases and specification:

Contract 1 is the main contract and has been effective as of 01 Apr 2018, for a period of 3yrs (+1 +1). The whole life cost of the current contract is: £2,675,000.00. The price stated in this paragraph is not inclusive of the requested two month extension.

Contract 2 is a separate contract for Independent Health Complaints Advocacy. Originally, we were part of a pan London consortium and the decision was taken to separate from this in Apr 2021 and commission separately. This contract is a total of £92k over 2 years

Both contracts currently run until 31st March 2023 and are delivered by the one provider.

6.3 Risk Assessment/Management

Risk	Likelihood	Impact	Overall	Action to avoid/mitigate risk
Impact of Legislative reforms around IMCA (DOLS to LPS) and Care Act - This brings financial risks.	High	High	High	<p>The contract life will be for 5 years (3 years +1 +1) to enable a variation should the need arise.</p> <p>We have added a break clause in the contract for 12 months after reforms are enacted.</p> <p>Service design has taken into account an increase in Statutory Advocacy cases.</p> <p>There is also likely to be a period of transition between reforms and the legislation embedding</p>

Further savings are likely to create further divisions of inequality for residents who are already impacted systemic inequalities and the impact of covid	High	High	High	<p>Ensure resources are available to deliver non statutory advocacy for those most in need.</p> <p>Build capacity into system asap to enable community delivery.</p> <p>Work to ensure budget envelope maximises impact</p>
Demand for Non Statutory Advocacy increases beyond budget	Medium	High	High	The nonstatutory model has been designed to help enable community strengths approach, and promote wider sustainability of advocacy locally e.g. through alternative forms.
Lead provider failure	Low	Medium	Medium	Contingencies written into the contract. Quality assurance and compliance measures will be put in place to monitor the contract throughout its life. The contract will be for 5 years (3 years +1 +1) to enable a review of terms and conditions.
TUPE implications cause a delay in timetable for implementation of any new contract	Low	Medium	Medium	The provider has detailed a robust mobilisation plan as part of their tender response - detailing engagement with existing staff at the earliest opportunity to ensure a full staff quota.
Sustainability of SMEs and local market	Medium	Medium	Medium	The provider will develop the SME's to deliver non-statutory advocacy and support them to achieve accredited training to enable them to undertake specialist advocacy.
Successful provider fails to develop necessary local knowledge to deliver the contract as per the specification and model.	Low	High	Low	<p>Sub-contracting of non-statutory services by the prime contractor to the local Network of organisations is expected to mitigate against this risk.</p> <p>Providers will be contractually obliged to create links with Micro</p>

				Enterprises and SMEs from the voluntary and community sector and subcontract delivery as per specification
--	--	--	--	--

7. Savings

Provider C has forecast that the contract can be delivered as required with a budget of £2.645m which represents a saving of £28k over the whole life of the contract against the initial approved budget.

8. Sustainability Issues and Opportunities, Social Value Benefits

Bidders were asked as part of the SQ section to submit their Carbon Reduction plans as well as their Modern Slavery statements. These were scored on a pass / fail basis to ensure that they align with the Council's ethos.

Bidders were also asked as part of the Method Statement questions within the tender response, to demonstrate how they would meet the Council's Sustainable Procurement Strategy deliverables across the three key themes.

The Commissioning and Procurement team have utilised the Council's Sustainable Benefits Tracker to identify what **Provider C** could deliver based on the question asked within the tender document.

8.1. Procuring Green

There were no adverse environmental impacts highlighted within the PRIMAS document undertaken before the business case approval. **Provider C** stated that they would meet the objective for "Procuring Green" by:

- Promoting digital meetings and training where possible
- Supporting clients in home localities via the community network
- Using direct translation services via the ReciteMe website
- Utilising the Advocacy Hive CMS for real time fully digital information reporting

8.2. Procuring For A Better Society

There were no adverse economical impacts highlighted within the PRIMAS document undertaken before the business case approval. **Provider C** stated that they would meet the objective for "Procuring for a Better Society" by:

- Advertising locally for staff and volunteer recruitment via DWP, FindAJob, the Supported Employment Service and local partners
- Raising awareness around the Advocacy Career Pathway to attract volunteers, apprentices and trainees for in-house training
- Offering x1 apprenticeship for a trainee advocate role
- Ongoing support and upskilling of MSMEs / SMEs delivering community advocacy including accredited training, governance and co-production of services
- Ongoing development of MSMEs / SMEs to enable delivery of non-statutory advocacy by 100% from day 1 and to increase capacity for statutory advocacy for 50% to be delivered by MSMEs / SMEs

8.3. **Procuring Fair Delivery**

There were no adverse impacts in terms of equalities highlighted within the PRIMAS document undertaken before the business case approval. **Provider C** stated that they would meet the objective for “Procuring Fair Delivery” by:

- Advertising job opportunities to local people using ReciteMe, which enables the opportunity to be translated into various languages
- Delivering representative recruitment, by adjusting the approach to meet the needs of various cohorts
- Committing to paying all employees London Living Wage
- Ongoing training for staff and volunteers working with the provider
- Benchmarking and offering clarity on pay and rewards for staff

8.4 **Equality Impact Assessment and Equality Issues**

A full Equalities Impact Assessment was undertaken and highlighted the disparities between underserved communities and the need for culturally appropriate services with community organisations best placed to help bridge these gaps in service provision. This was included as Appendix 3 in the Business Case.

8.5 **Social Value Benefits**

The Advocacy service has been designed and awarded on the delivery of huge social value including:

- Supporting the most vulnerable to have their voice heard particularly when they could be at their most vulnerable
- Developing long term capacity in MSMEs within the CVS to deliver all forms of Advocacy for the future (100% of non statutory advocacy from Day 1 of contract and 50% of statutory by end of Y3 meaning

the majority of the casework contract value will flow in local CVS organisations).

- Significant Ring Fenced funding to train individuals in local CVS organisations as Advocates
- Commitment to deliver training, apprenticeship and employment opportunities for Hackney Residents
- Supporting community cohesion, and empowering local people to shape and deliver services
- Widespread knowledge and training sessions for professional and neighbourhoods
- 100s of residents trained in alternative forms of Advocacy
- Improved visibility and community outreach
- Expansion of MSME CVS Advocacy Network

Incentivised KPIs have been developed to support these elements of the contract (see Appendix 1: Key Performance Indicators). We will also utilise the Council's Sustainability and Social Value Benefit Tracker in collaboration with the successful provider to ensure that we can monitor achievable added value.

9. Tender Evaluation

The procurement followed a two stage tender process, under the Light Touch Regime. This meant that bidders were required to complete a Selection Questionnaire (SQ), and pass on specific criterion at this stage, before proceeding to the Invite to Tender (ITT) stage.

A full specification was made available with the tender advert, following the Public Contract Regulations (2015). A Find a Tender notice was placed via the ProContract system, along with an advert on the Council's website. An email was also sent out to prospective bidders who took part in the consultation stage for the Advocacy service, through a webinar which was also advertised through ProContract.

Twenty-one expressions of interest (EOIs) were received, resulting in seven SQ submissions, six of which went on to complete an ITT response. This complete list can be found in Exempt Appendix 1.

A total of six SQ submissions were received. Each SQ was assessed on technical capability, financial standing and insurance criteria. There were additional x5 project specific questions, which bidders were required to pass in order to proceed to the next stage. Bidders were required to submit policies relating to Safeguarding and Modern Slavery, as well as their CO2 Reduction Plans, and these were marked to check that they are robust and fit for purpose. One bidder was disqualified from this stage of the tender, due to not having the relevant experience of delivering a statutory Advocacy service.

At ITT stage, a total of x4 bid responses were received. Feedback was requested from the bidders who did not submit a response, as to why this was the case. A bidder cited a number of reasons:

- Their understanding of the specification was that the Council's intentions were for all services to be delivered by other organisations by the end of the contract and as they are a charity, the governance and financial stewardship requires them to secure sustainably funded work.
- Concerns around TUPE requirements and employment of additional staff.
- Timescale between the full ITT stage and submission wouldn't allow for the development of partnerships required.

Scoring:

There were 6 members of a core tender panel, with various areas of expertise, and oversight given from the Adults Social Care Head of Commissioning. Below is a list of panel members and their respective organisations:

Role	Organisation
Joint Strategic Commissioner Learning Disabilities & Autism	LB Hackney
Joint Commissioning Officer Learning Disabilities & Autism	LB Hackney
Quality Assurance & Compliance Officer (Learning Disabilities)	LB Hackney
Deputy Head of Service - Complex Care and Safeguarding	LB Hackney
Senior Practitioner - Safeguarding Adults and DoLS	LB Hackney
Engagement and Co Production Manager	Healthwatch Hackney

The tender was evaluated on the criteria in the table below. The requirements for scoring were clearly explained within the ITT document and written into the method statement document.

Scoring Criteria	Score
Quality	80%
Service Delivery	36%
Service Quality	12%

Staffing	4%
Equality & Partnership Working	20%
Mobilisation	4%
Presentation Question	4%
Price	20%

The total percentage of the Quality aspect was marked out of 100% and apportioned to 80% of the final score, with the pricing making up the additional 20%.

Bidders were asked to give a 20 minute presentation based on a question released with the method statement questions. A specific question was asked and scored by the core panel, including x3 Experts by Experience.

10. Recommendation

The tender panel recommends that **Provider C** is awarded the contract for the Advocacy service. Provider C demonstrated that they could meet the full requirements of the specification, and that they understood the need for engagement and working with local SMEs, as well as service users for co-production. In comparison to other bidders, they demonstrated a good knowledge of addressing inequalities in the borough and produced a plan along with strong measurable outcomes.

The final scores are outlined in the table below:

Tender Results			
	Quality	Price	Total Score
Provider A	52%	19.78%	71.78%
Provider B	35.20%	19.94%	55.14%
Provider C	64.32%	20%	84.32%
Provider D	61.76%	19.79%	81.55%

Lots:

This procurement was not split into lots, to support an integrated model. The requirement of the service is to support MSMEs / SMEs and the VCS sector organisations through subcontracting arrangements to reach local community groups with support to deliver a sustainable section of the service. This model was proposed, outlined and approved in the business case.

There is a requirement that 100% of all non statutory advocacy is delivered by local MSMEs and VCS organisations from day 1 of the contract. There is also the expectation that by the end of year 3, 50% of all

statutory cases will also be delivered by local MSMEs and VCS organisations.

TUPE:

There are a number of staff eligible for TUPE through the change in service providers. This has been factored into the pricing schedule. The service has a 4 month mobilisation period in order to facilitate TUPE arrangements. This also means that the successful provider is able to recruit and embed staff where there are vacant posts.

London Living Wage:

Bidders were asked through the SQ and ITT stages whether they commit to paying London Living Wage to all employees working specifically on the Advocacy service contract. All bidders confirmed that they pay their employees London Living Wage.

11. Contract Management Arrangements

The contract will be managed within the Adults Social Care Commissioning Team, with a named Quality Assurance Officer.

Implementation of the contract will be overseen by the service Commissioner, with regular meetings and communication with the successful provider. This will include reviewing the implementation plan provided by the successful provider in their bid.

Contract performance meetings will be held each quarter with monthly meetings within the first 2 months of the contract to ensure that mobilisation is successfully embedded. This is in addition to the 4 month pre-planned mobilisation phase set by the provider. The Adults Social Care Commissioning Team have systems for performance monitoring and reporting as well as invoicing and this will be set up for the Advocacy service as standard.

The contract includes incentivised payments for select KPIs, which allows for 20% of the annual contract price to be apportioned to reaching these targets. This has been explicitly stated in the draft Terms and Conditions which were sent out alongside the ITT document, and also in the Pricing Schedule that was submitted with the tender response.

11.1. Key Performance Indicators

The KPIs will be monitored quarterly, with these being submitted to the Council in line with the other contractual arrangements. Some of this data comprises the National dataset and so requires uploading onto national databases. This duty will remain with the provider and be assured by the Council, who will validate data.

The Adults Social Care Commissioning team will also request comprehensive data collection that illustrates the activity and outcomes across all areas of service provision. This will include service user data demographics to identify how many clients use the service from within the borough.

A full list of the Key Performance Indicators can be found in Appendix 1 - Key Performance Indicators.

Alongside the service outcomes and KPIs, we have utilised the Council's Sustainability and Social Value tracker which enables us to set targets around outcomes detailed in the successful providers bid response. These will be confirmed during the mobilisation stage of the process so that we can ensure that these are viable for the provider to deliver.

12. Comments Of Group Director Of Finance And Corporate Resources

- 12.1. This report seeks approval from the Cabinet Procurement and Insourcing Committee to award the contract for the delivery of the Advocacy Service to Provider C for a period of 5 years (3+1+1) commencing in June 2023 at a maximum contract cost of £2,645k (an average of £529k per annum).
- 12.2. Also, this report seeks approval to award an extension to the current service contracts, for a period of up to 2 months (April - May 23) at a maximum contract cost of £105k. This is to enable the newly appointed provider to mobilise effectively, without disruption to service delivery. The annual cost of the new contract and the two months extension will be funded from the allocated budget for this service of £535k.
- 12.3. The anticipated expenditure per year includes a number of assumptions around additional demand leading to an increasing cost of provision. There is a risk that demand will exceed these assumptions leading to additional cost pressure if the spot purchase mechanism is triggered. The contract and funding will need to be monitored carefully to ensure that any demand pressures are well understood and that any future changes to the availability of funds are identified to ensure expenditure is contained within the funding available for the service.

13. VAT Implications On Land & Property Transactions

- 13.1. Not applicable.

14. Comments Of The Director, Legal, Democratic & Electoral Services

- 14.1. This Report was classified as Medium Risk and Hackney Procurement Board approved a Business Case in respect of the procurement on 13th September 2022. Paragraph 2.7.7 of Contract Standing Orders states that, in respect of procurements with a risk assessment of "Medium Risk", Cabinet Procurement and Insourcing Committee will determine the award

of contracts above the value of £2m. The estimated maximum value of the contract in this Report is above £2m so therefore Cabinet Procurement and Insourcing Committee can agree the recommendation in this Report.

- 14.2. Details of the procurement process undertaken by officers are set out in this Report.
- 14.3. In addition to the contract award proposed above, authority is sought from Cabinet Procurement and Insourcing Committee to extend two current contracts for advocacy services. One contract extension (Advocacy Services) is for the sum of £97,000 and the other contract extension (Independent Health Complaints Advocacy Services) is for the sum of £7,700. Each of these proposed variations to contract are (i) below ten percent (10%) of the initial contract value; and (ii) below the threshold for services under the Public Contracts Regulations 2015; and (iii) do not alter the overall nature of the contract. Therefore they are permitted under Regulation 72(5) of the Public Contracts Regulations 2015.

15. Comments Of The Procurement Category Lead

- 15.1. The proposed contract is valued at £2.645M which is above the relevant UK public procurement threshold (Social and Other Specific Services “light touch” regime). The Council’s Contract Standing Orders require that the Award of a procurement of this value be approved by Cabinet Procurement and Insourcing Committee.
- 15.2. A competitive tender process has been carried out in compliance with Contract Standing Orders and the recommendation is to award to the provider offering the most economically advantageous tender assessed against the published criteria.
- 15.3. Relevant KPIs and performance measures are proposed including those aligned to strategic and corporate targets. The specification requires the contractor to meet requirements with regard to sustainability and social value, including payment of the London Living Wage as a minimum for all staff employed to deliver this service.
- 15.4. Extension of the existing contracts for two months is supported to ensure continuity of service and a smooth transition

Appendices

Appendix 1 - Key Performance Indicators - (Attached separately)

Appendix 2 - Expression of Interest List & Scoring Methodology (**Exempt**)
(Attached separately)

Exempt

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

CONFIDENTIAL

No

Background Documents

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required.

Description Of Document (Or None)

None.

Report Author	Mark Foster _____ Joint Commissioning Officer Learning Disabilities & Autism _____ mark.foster@hackney.gov.uk _____
Comments for and on behalf of the Group Director of Finance and Corporate Resources prepared by	Reza Paruk _____ Head of Finance _____ reza.paruk@hackney.gov.uk _____
Comments for and on behalf of the Director of Legal, Democratic and Electoral Services prepared by	Name: Patrick Rodger _____ Title: Senior Lawyer _____ Email: patrick.rodger@hackney.gov.uk _____ Tel: 020 8356 6031
Comments of the Procurement Category Lead	Timothy Lee _____ Category Lead - Social Care & Public Health _____

timothy.lee@hackney.gov.uk
