

Decision maker:	Officer: Director for adults and wellbeing
Decision date:	15 May 2017
Title of report:	Award of independent advocacy service for adults contract
Report by:	Strategic wellbeing and housing manager

Classification

Open

Key decision

This is not a key decision.

Wards affected

Countywide

Purpose

To approve the award of a contract for the provision of an independent adults advocacy service in Herefordshire, once the existing contract expires.

Recommendation(s)

THAT:

- (a) a contract is awarded to **Onside Independent Advocacy for the provision of an independent advocacy service for adults in Herefordshire for a maximum term of four years, to a total maximum value of £780,000.**

Alternative options

- 1 Not to award. This option is not recommended as a competitive tender process has been carried out and four bid submissions were received from providers to deliver the service. The current contract with Onside Independent Advocacy will expire on 31 July 2017 and has no further recourse to be extended. Not recommissioning the advocacy service is not recommended as this would lead to a gap in advocacy provision, resulting in the council not being compliant with the Care Act 2014 or with responsibility for advocacy under other legislation.

Reasons for recommendations

- 2 To ensure the delivery of the service and award a contract in accordance with council contract procedure rules following a competitive tender process as required by the Cabinet member's decision on 21 February 2017. A copy of the tender evaluation report is attached as appendix 1.

Key considerations

- 3 The award of the independent advocacy service for adults contract will ensure the council meets its legal responsibility to ensure the availability of the following services for vulnerable adults:
 - a. Independent mental health advocate (IMHA) under the Mental Health Act 1983, section 130A (incorporated into the 1983 Act in 2007).
 - b. Independent mental capacity advocate (IMCA) under the Mental Capacity Act 2005 (including deprivation of liberty safeguards (DoLS) provision)
 - c. Independent advocate under the Care Act 2014.
 - d. NHS complaints advocacy service (formerly independent complaints advocacy service – ICAS) is a requirement of the Health and Social Care Act 2012.
- 4 In addition to these legal obligations, the award of independent advocacy service for adults contract will capture the spirit of the Care Act by enabling the provision of generic advocacy to support adults who are not able to express their views and preferences.
- 5 Contract monitoring data provided by the existing service demonstrates that there is a continuing, and in many respects, growing demand for an advocacy service, as demonstrated in the table below. Following a competitive tender process Onside Independent Advocacy has been identified as the highest scoring provider and therefore most suitable to deliver this service.

Type of advocacy	2014/15 to 2015/16 % change
IMCA	+96%
IMHA	+67%
Care Act	+240%
NHS complaints advocacy	-32%
Generic advocacy	+23%

- 6 If the advocacy service in general was no longer provided, there would be a significant impact on a large number of vulnerable adults. This may also impede professionals from being able to carry out other legal duties, including under the Mental Health Act 1983, as amended.
- 7 The Cabinet member decision taken in February 2017 delegated authority to the director for adults and wellbeing to award a contract within the specified budget.

Community impact

- 8 The Care Act articulates the principles of wellbeing and prevention, and the recognition that an individual, their family and/or carer must be enabled to make decisions regarding their care. By awarding this contract the council will ensure the provision of a service that contributes to meeting people’s needs within and by communities and help to minimise demand on public sector services.
- 9 The award of the independent advocacy service for adults contract will make a significant contribution to priority one of the health and wellbeing strategy “mental health and wellbeing” by supporting people to be involved in the process of making decisions about their health or care.
- 10 Awarding the contract for the provision of the independent advocacy service contributes to achieving the priorities of the council’s corporate plan by ensuring everybody is able to make their voice heard and be part of any process that involves making decisions about their health or care needs.

Equality duty

- 11 The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.
- 12 Onside Independent Advocacy’s tender document demonstrated that the service will be managed and delivered in accordance with the requirements of legislation and with Herefordshire’s equality policy.
- 13 Adults who require advocacy services will share a number of the protected characteristics, which are set down in the Equality Act 2010 and towards which public bodies, such as Herefordshire Council, have a legal responsibility.
- 14 The availability of good quality advocacy promotes the rights and participation of those with protected characteristics.

Financial implications

- 15 It is expected that the levels of demand will be met within the current spending level. The value of the successful bid from Onside Independent Advocacy is £193,200 per annum, total maximum value of £772,800 (3+1 years). The budget is subject to continued funding from the Department of Health (DoH), which is reviewed annually. Current spending per annum:

Base budget	£68k
Care Act implementation funding	£75k
DoH funding for the NHS complaints advocacy service	£52k

- 16 There is no opportunity to make savings from the value of the contract due to sustained levels of demand and the statutory nature of almost all the services involved.

Legal implications

- 17 This report and the accompanying Procurement Evaluation Report demonstrate compliance with both the council's Contract Procedure Rules and the Public Contracts Regulations 2015.
- 18 As correctly indicated in this report, the only decision open is to either 1) award the contract to the operator named in the recommendations or 2) to terminate the procurement completely. There is no option to award a contract to another bidder.

Risk management

- 19 The risks to the council if the proposals in the report are agreed are:
- a. The risks around the mobilisation of the independent advocacy service are minimal as Onside Independent Advocacy is the current provider of independent advocacy services in Herefordshire.
 - b. Risks around service delivery are minimal as the successful bidder is experienced in advocacy delivery and in delivering services in Herefordshire. They also have a comprehensive approach to risk management and risk mitigation, including risks around business continuity and critical incidents.
- 20 If the recommendations in this report are not approved then the following risks would arise:
- a. The council would risk legal challenge or censure by government for not meeting its statutory obligations if this service is not recommissioned. There would also be risk to the vulnerable adults who require this service and damage to the council's reputation and strategic relations.

Consultees

- 21 None

Appendices

Appendix A - Advocacy tender evaluation report.

Appendix B - Equality Impact Evaluation

Background papers

None identified.