



Report to Policy Committee

Author/Lead Officer of Report: Avi Derej,
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Report of: Alexis Chappell
Report to: Adult Health and Social Care Policy Committee
Date of Decision: 20th September 2023
Subject: Advocacy Services – Current and Future

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? 2304				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below: -				
<p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>				

Purpose of Report:

The purpose of the report is to request agreement to the commissioning strategy for the provision of advocacy services.

This report summarises the Council’s statutory duties to provide advocacy and sets out the Council’s recommendations for the development and delivery of advocacy services through a new contract to be delivered by an external provider.

It also notes the importance of ensuring continuity of advocacy services, and our proposals to delivery these in a way that meets the needs of the people of Sheffield.

Recommendations:

It is recommended that the Adult Health and Social Care Policy Committee:

1. Approves the commission of advocacy services from an independent external provider, for a period of 7 years and for an estimated annual value of £1.23m as set out in this report.
2. Notes that the Strategic Director for Adult Care and Wellbeing Services provide an annual update on impact of advocacy services to the Committee.

Background Papers:

Appendix 1 – Equality Impact Assessment

Appendix 2 – Engagement Overview

Lead Officer to complete: -		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Laura Foster
		Legal: Richard Marik
		Equalities & Consultation: Ed Sexton
		Climate: Catherine Bunten
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	SLB member who approved submission:	Alexis Chappell
3	Committee Chair consulted:	<i>Councillor Angela Argenzio</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Avi Derei	Job Title: Commissioning Officer
	Date: 21 st August 2023	

1. PROPOSAL

- 1.1 Advocacy services are currently being provided by the Sheffield Advocacy Hub. This arrangement will end on 31 March 2024 with the ending of the Contract.
- 1.2 The proposal is for the Council to continue to commission Advocacy services for both statutory and non-statutory advocacy, and to do this through seeking an external/independent provider.
- 1.3 It is proposed that this commissioning will cover a period of up to 7 years of service delivery.
- 1.4 The commissioned service will be flexible enough to allow for the Council to respond to changes in demand, and changes in legislation; specifically, the possible implementation of the Liberty Protection Safeguards (LPS), Mental Capacity (Amendment) Act 2019.

Background

Statutory Duties

- 1.5 The Council have statutory duties under the Care Act 2014, the Mental Capacity Act 2005, the Health and Social Care Act 2012 and the Mental Health Act 2007 to maintain a stable and sustainable care market.
- 1.6 The Council also has a duty under the Care Act 2014 to provide an independent advocate for adults, where needed, as part of assessment and care management including safeguarding enquiries.
- 1.7 The advocacy duty applies from the point of first contact with the local authority and at any subsequent stage of the assessment, planning, care review, safeguarding enquiry, or safeguarding adult review. If it appears to the authority that a person has care and support needs, then a judgement must be made as to:
 - whether that person has substantial difficulty in being involved (i.e., difficulty in understanding relevant information; retaining information; using or weighing information; and/or communicating views, wishes and feelings.)
 - if there is an absence of an appropriate individual to support them.
- 1.8 An independent advocate must be appointed to support and represent the person for the purpose of assisting their involvement if these two conditions are met and if the individual is required to take part in one or more of the following processes described in the Care Act:
 - Adults - a needs assessment, a carer's assessment, the preparation of a care and support or support plan, a review of a care and support or support plan.
 - Safeguarding - a safeguarding enquiry, a safeguarding adult review.
- 1.9 The advocacy role may also involve assisting a person to challenge a decision or process made by the local authority; and where a person cannot challenge the decision even with assistance, then to challenge it on their behalf.

1.10 In Sheffield, we fulfil these duties currently through a contract with Sheffield Citizens Advice and Law Centre who deliver the Sheffield Advocacy Hub providing Advocacy Services for the Council. The Sheffield Advocacy Hub provides a single point of contact for anyone requiring adult advocacy services. The advocacy services under the current contract include:

- Care Act advocacy
- Independent mental health advocacy (IMHA)
- Independent mental capacity advocacy (IMCA)
- Independent mental capacity advocacy with a focus on deprivation of liberty (DOLS)
- NHS complaints advocacy
- Learning Disabilities Non statutory advocacy
- Relevant person's representative advocacy (RPR)

Current arrangements for the delivery of Advocacy services

1.11 Sheffield Advocacy Hub currently provides advocacy services.

1.12 The service commenced in 2017 for a period of 5 years, and for a value of £4,465,695. A 1-year extension to the service was agreed for periods April 2022-March 2023 (£1.03m) and April 2023- March 2024 (£1.23m).

1.13 The extensions were provided due to the anticipated imminent introduction of Liberty Protection Safeguards (LPS) and the unknown impact this may have on advocacy services and demand. In April 2023, the Department of Health and Social Care announced the implementation of the Liberty Protection Safeguards (LPS), the Mental Capacity (Amendment) Act 2019, would be delayed “beyond the life of this Parliament”.

1.14 The failure to provide Advocacy services after expiration of the current service without another arrangement in place to deliver advocacy services would therefore mean that the Council would fail to meet its statutory duty.

Proposed New Service Scope

1.15 The aim of the commissioning strategy is to build on the strong offer currently available in Sheffield, developing a service with increased accessibility to advocacy services through a broader scope and through specified activity to raise the profile and awareness of the advocacy offer.

1.16 Review and evaluation of current delivery and demand has raised some gaps in advocacy provision in Sheffield. The areas of need identified are:

- non-statutory deaf advocacy

1.17 We know that better outcomes for individuals and services are achieved with additional access to advocacy support, and through professional training to increase the awareness and understanding of advocacy services.

- 1.18 We are therefore broadening the scope of the Advocacy service to include the following in response to our review and learning from Safeguarding, Race Equality Commission, and feedback from Festival of Involvement:
- **Advocacy training for professionals.** This to include social care professionals, health professionals and others. The new service will specify a training offer for social care staff and will allow other services to purchase advocacy training to meet the needs of their workforce.
 - **Awareness raising about the role of advocacy to public, local area committees and across Communities.**
 - **A model to meet the communication needs of people through the life course and particularly taking into account learning from the Race Equality Commission.**
 - **Maximising advocacy capacity through developing and embedding a peer/volunteer advocacy model.**
- 1.18 Further, it is intended that the commissioned service will ensure delivery of a service which is equitable and takes positive action to address any disproportionality. Advocacy must be accessible to all, and we will monitor both access and impact of Advocacy experience by people who have characteristics of all equality groups.

Rationale for Commissioning Strategy

- 1.20 There is a need to provide long term stable advocacy services to the population of Sheffield to ensure the Council continues to meet its statutory requirement to provide advocacy services and to support better outcomes for individuals who use services.
- 1.21 The new service will enable increased access to advocacy and an improved training offer and maximisation of capacity through a peer/volunteering model.
- 1.22 Should the current arrangement with Sheffield Citizens Advice and Law Centre expire, the Council would be unable to commission any further Advocacy services via the existing arrangements.
- 1.23 Failure to pro-actively secure alternative provision of Advocacy services following the expiry of the current service provided by Sheffield Citizens Advice and Law Centre would mean that advocacy could only be arranged via:
- a spot purchase of individual advocacy services for each individual - which is not recommended as the most efficient or effective commissioning process and would negatively impact upon the Council's ability to monitor and quality assure provision, or
 - a direct payment – which may put unnecessary pressure upon the person in receipt of care to arrange, finance and manage if this is not what they wish to do. We do not feel that this process will be equitable across those in need of advocacy support and will inevitably favour those already in the social care system. This may in turn lead to additional pressure on social care.

- an in-house service – this approach would not adhere to good practice. The Care Act 2014 advises that *providers of advocacy must be independent of the local authority, with their own constitution, code of practice and complaints procedure*. Skills for Care have also advised in recent advocacy commissioning guidance

1.23 It is therefore proposed that Adult Health and Social Care Committee approves the commissioning strategy for the provision of statutory and non-statutory advocacy services. This will enable the Council to continue to provide Advocacy Services and meet its statutory duties under the Care Act 2014, Mental Health Act 2007. This will also support the Council in meeting the needs of vulnerable parts of the population via non-statutory advocacy support.

Future updates to Adult Health and Social Care Policy Committee

The Strategic Director for Adult Care and Wellbeing Services will provide an annual update on impact of advocacy services to the committee.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 Sheffield City Council Corporate Delivery Plan outlines six strategic goals for the city. The Current arrangements for the delivery of Advocacy services and the proposal to extend the current contract contributes most significantly to:

- **‘Enabling adults to live the life that they want to live’**: Advocacy services are essential in providing voice for people and supporting the residents of Sheffield to get the support they want from social care and health services.
- **‘Involve our citizens in the decisions that affect them and their communities’** – Advocacy is a key partner supporting the residents of Sheffield to participate in discussions about issues that affect them and their communities.

2.2 We have developed an [Adult Health and Social Care Strategy](#) and [delivery plan](#) to set out our vision for 2022 to 2030. Called ‘Living the life you want to live’, it is about how we work together to help the people of Sheffield to live long, healthy and fulfilled lives. Our Adult Social Care Vision is that:

everyone in Sheffield lives in a place they can call home, in communities that care, doing things that matter to them, celebrated for who they are - and when they need it, they receive care and support that prioritises independence, choice, and recovery.

2.3 The proposal supports the delivery of Strategy and can be measured against our key performance indicators, including ASCOF measures, local outcomes and the ‘I statements’. Specific performance indicators relevant to this report are provided in the table below:

	Performance Indicator	Target 22/23	Current Position	21/22 Baseline
06	National Outcomes			

	People who use services who feel safe. (ASCOF 4A)	69.3%	66.6% (22/23)	56.9%
	People who use services who say that those services have made them feel safe and secure. (ASCOF 4B)	85.6%	85.9% (22/23)	79.4%
	Proportion of individuals lacking capacity who were supported by an advocate, family member or friend (CQC)			
	I statements			
	I deal with people I know and trust that are well trained and love their job, respect my expertise, and can make decisions with me.	New Measure	61.9%	N/A
	The system is easy to navigate. I know how and where I can get the support I need when I need it.	New Measure	26.3%	N/A
Connected & Engaged	I statements			
	I know what services and opportunities are available in my area.	New Measure	43.4%	N/A
	I am confident to engage with friends/support services.	New Measure	36.4%	N/A
	I am listened to and heard and treated as an individual.	New Measure	50.0%	N/A
Active & Independent	I statements			
	I know that I have control over my life, which includes planning ahead.	n/a	60.8%	N/A
	I know that I have some control over my life and that I will be treated with respect	n/a	70.7%	N/A
	When I need support, it looks at my whole situation, not just the one that might be an issue at the time.	n/a	52.5%	N/A
	We start with a positive conversation, whatever my age.	n/a	63.2%	N/A

- 2.4 The proposals in the report contribute to Adult Social Care performance against the CQC Assessment Framework for Local Authorities, specifically:
- Theme 1: Working with people
 - Theme 2: Providing support
- 2.5 The proposals in the report will support the delivery of Council actions and priorities as they relate to the Race Equality Commission, Climate Action Plan and the development of City Goals as well as learning from our Festival of Involvement which took place during Summer 2023.
- 2.6 The proposals in the report contribute to wider activity and delivery within Adults Care and Wellbeing, including our Safeguarding Delivery Plan, our Carers Strategy and Delivery plan, our Transitions model, and our partnership work with Health.
- 2.7 A risk has been identified that the expiration of the current arrangement without a new commission in place to start may impact upon the accessibility of statutory advocacy services.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 Consultation has been completed using a variety of methods including 1:1 interview, group workshops, surveys, and benchmarking.
- 3.2 Consultation has been carried out with individuals who use advocacy services, individual who may use advocacy services in the future, general public, referrers to

advocacy services, health and social care professionals and advocacy staff who deliver the current service.

- 3.3 Consultation has also been carried out with national advocacy organisations, other local authorities, health trusts and recognised national specialists.
- 3.4 Learning has also been taken from the Festival of Involvement which took place during Summer 2023, Race Equality Commission and our Safeguarding review and this identified a need to ensure that the communication needs of people through the life course are recognised and a clear strategy is in place to ensure voices are heard.
- 3.5 Detailed information regarding the approach taken and draft findings from the consultation can be found in appendix 2.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 Decisions need to consider the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This is the duty to have due regard to the need to:
- eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act.
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 4.1.2 The Equality Act 2010 identifies the following groups as a protected characteristic: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- 4.1.3 The extension will support people to have a voice in their own health, support, and other matters that they would otherwise be without. In Equality Act terms, beneficiaries share many protected characteristics. The primary characteristic of Disability covers a range of support under Sheffield Advocacy Hub (including mental health and learning disability). Secondary characteristics (e.g. relating to Race or Age) apply). And advocacy is also relevant to the Council's wider consideration of equality interests – e.g., Health, Poverty.
- 4.1.4 As such, the extension to the framework contract and maintenance of advocacy provision is supportive of the Council's responsibilities under The Duty, namely, to consider ways to improve the experience and outcomes of people who share protected characteristics relative to those who do not.
- 4.1.5 An Equality Impact Assessment has been completed and is summarised below:
- The extension of the contract will prevent unnecessary disruption to continuity of care, which would have negative impacts upon the people in receipt of services.

- The extension will allow continued equitable access to advocacy services for Sheffield residents.
- Positives impacts upon persons who share protected characteristics would be maintained because of the extension.

4.1.6 The proposals will support to ensure that advocacy support remains stable over the next 7 years and will continue to ensure the availability and quality of advocacy delivered to vulnerable adults in Sheffield. The commission of a new advocacy contract is not likely impact disproportionately on any section of the service user population.

4.2 Financial and Commercial Implications

4.2.1 In March 2023, Adult Health and Social Care Committee agreed to extend the Advocacy contract for one year for 23/24 at a value of £1,230,000.

4.2.2 For 23/24, the gross budget available for the Advocacy contract is £797,200.

4.2.3 Current activity levels show that the Advocacy service is forecast to deliver within the contract value, however, due to the uplift in value for inflationary pressures, there is a forecast overspend for 23/24 of c. £259,000.

4.2.4 At present, the Advocacy service receives grant funding, and recharge income from DOLs. Recharges have been consistently higher than budgeted due to increased demand within the service. This increased income is included within forecasts and mitigates some of the pressure faced. Should there be a reduction in the recharges from the DOLs service, or the grant comes to an end, the level of overspend will further increase. The proposed increase in scope of the contract may also attract additional recharge income based on demand.

4.2.5 Any pressures arising from the new contract will need mitigating or addressing through Business Planning.

4.3 Legal Implications

4.3.1 The Council have statutory duties under the Care Act 2014, the Mental Capacity Act 2005, the Health and Social Care Act 2012 and the Mental Health Act 2007 to maintain a stable and sustainable care market.

4.3.2 The Council also has a duty under the Care Act 2014 to provide an independent advocate for adults, where needed, as part of assessment and care management including safeguarding enquiries.

4.3.3 The contracting arrangements in this report are permitted by the Local Government (Contracts) Act 1997.

4.4 Climate Implications

4.4.1 A Climate Impact Assessment has been completed and is attached at Appendix 3.

4.4.2 The assessment has considered how the Working Age Framework providers can have a focus on the impact of climate change and contribute to mitigate against these changes, thereby aligning with Sheffield's aim to become a net zero carbon city by 2030.

4.4.3 Provision of a more sustainable and flexible suite of services over a longer contract term will enable the local authority and all stakeholders to explore and develop opportunities to collaborate, share resources and reduce carbon emissions. Framework providers will be in a unique position to influence people they support by raising awareness of climate impact and encouraging them to make changes in their everyday lives that will reduce carbon emissions.

4.4.4 We expect all providers to appoint Climate Impact Champions and complete an annual self-assessment to evidence how they are working towards the reduction of carbon emissions.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1

Options	Risks	Mitigation
Option 1 - Allow service to lapse	<p>SCC would not meet statutory responsibilities</p> <p>SCC would not have an overview on quality</p> <p>SCC would have reduced influence in the hourly rate / cost of provision and value for money</p> <p>SCC would not have an overview of referral rates</p> <p>SCC would not have an overview of spend</p> <p>SCC would not have an overview on throughput</p> <p>SCC would not have an overview on waiting lists</p>	SCC could spot purchase advocacy services
Option 2 - Offer a 12 further extension at current hourly rate	<p>The Council would be at risk of a breach of procurement regulations</p> <p>The provider may not accept this proposal.</p>	SCC could spot purchase advocacy services
Option 3 – deliver service in-house	The Council would be at risk of a breach of Care Act 2014 guidance. The Council would not adhere to best practice approach in commissioning advocacy services	No mitigation

6. REASONS FOR RECOMMENDATIONS

6.1 Should service provision cease, the Council will be unable to apply in an equitable manner our Statutory duty under the Care Act 2014, the Mental Capacity Act 2005, the Health and Social Care Act 2012 and the Mental Health Act 2007 to maintain a stable and sustainable care market. We would also be unable to meet the needs vulnerable adults identified as benefiting from non-statutory advocacy.