

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ADULT CARE AND HEALTH SERVICES

TO:	ADULT SOCIAL CARE CHILDREN'S SERVICES AND EDUCATION COMMITTEE		
DATE:	20 MARCH 2017	AGENDA ITEM:	12
TITLE:	STATUTORY ADVOCACY SERVICES FOR ADULTS		
LEAD COUNCILLOR:	Cllr RACHEL EDEN /Cllr GRAEME HOSKIN	PORTFOLIO:	ADULT CARE AND HEALTH SERVICES
SERVICE:	ADULT CARE AND HEALTH SERVICES	WARDS:	ALL WARDS
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report proposes the re-commissioning of three types of statutory advocacy provision under a single contract, setting out the rationale for this approach from a customer perspective and as an efficiency measure.
- 1.2 The preferred option is to commission a single provision to deliver Independent Mental Health Act advocacy, Care Act advocacy and NHS Complaints advocacy.

2. RECOMMENDED ACTION

- 2.1 That the Director of Adult Care and Health Services, in consultation with the Head of Legal Services and the Lead Councillor for Adult Care and the Lead Councillor for Health, be authorised to enter into a legally binding agreement with the provider or providers who are successful in a commissioning exercise to deliver a combined statutory advocacy service for adults in accordance with the requirements of the Mental Health Act (2007), the Health and Social Care Act (2012) and the Care Act (2014).

3. POLICY CONTEXT

- 3.1 The Council is obliged to make available advocacy support under prescribed circumstances in order to support adults' engagement in health or social care processes. These statutory advocacy services are distinct from self-advocacy services - currently provided by Talkback for Reading adults with a learning disability (and young people with a learning disability at the point of transition into adulthood) following the Narrowing the Gap re-commissioning exercise - and are also distinct from ongoing advocacy support which may be purchased with a Personal Budget when

an Adult Social Care service user is assessed as needing this support in order to meet Care Act outcomes.

- 3.2 **Independent Mental Capacity Act (IMCA)** advocates support vulnerable people who lack capacity to make important decisions, and who have no-one with whom it is appropriate to consult regarding those decisions. Support is provided in respect of the following decisions:
- Serious Medical Treatment
 - When the Local Authority is proposing to arrange accommodation for someone for longer than 8 weeks
 - When the NHS body is proposing to arrange accommodation for someone for longer than 28 days
 - The Deprivation of Liberty (DoLS) assessment process.

- 3.3 **Independent Mental Health Act (IMHA)** advocates support vulnerable people who are subject to the provisions of the Mental Health Act. This can include clients who are:
- detained under the Act;
 - conditionally discharged restricted patients;
 - subject to guardianship;
 - supervised community treatment (SCT) patients;
 - discussing the possibility of certain types of treatment.

Support is provided to help patients obtain information about and understand the following:

- their rights under the Act;
- the rights which other people (eg nearest relatives) have in relation to them under the Act;
- the particular parts of the Act which apply to them and which therefore make them eligible for advocacy;
- any conditions or restrictions to which they are subject;
- any medical treatment that they are receiving or might be given;
- the reasons for that treatment (or proposed treatment).

- 3.4 **Care Act** advocates support people who would have substantial difficulty in engaging with an Adult Social Care assessment, care planning process or review, or in taking part in Adult Safeguarding processes - and who have no one else suitable who could assist. The Care Act advocates help people to:
- understand information which the person needs in order to engage; or
 - retain information for long enough; or
 - use or weigh information; or
 - communicate their wishes and views.

Support is provided in order to represent the person and facilitate their engagement in the processes of assessment, care / support planning, review or Adult Safeguarding enquiries.

- 3.5 **NHS Complaints** advocates support people who have an issue or complaint about any aspect of their National Health Service (NHS) treatment or care. Advocates support and enable people to:
- seek resolution to issues which concern them;
 - understand their rights, make informed choices, and ensure that public and patient voices are heard and respected by those who make decisions about NHS healthcare services;
 - ensure client experiences inform service development in the NHS; and
 - feel more empowered, autonomous and informed about standards of healthcare.

- 3.6 The criteria for accessing the various services are complex, and it is not uncommon for referrals to be made initially into the wrong provision, although Reading's providers do appear to be working well together to remedy these errors quickly when

they occur. There is nevertheless scope to simplify arrangements to reduce delay, distress and abortive cost.

- 3.7 An individual adult may be eligible for more than one type of statutory advocacy at various times as they come into contact with health and social care. It is both desirable and more cost effective for an individual to be supported by the same advocate if this can be arranged. An advocate needs time to build up a rapport with an individual in order to advocate effectively, and it is time consuming if the individual needs to start afresh each time they need advocacy services. It is never possible to guarantee consistency of advocate, but this is more likely to be achievable if the various advocacy services which the local authority must provide are commissioned in alignment.
- 3.8 Bringing advocacy provision together is seen nationally as good practice, e.g. Care Act regulatory guidance references to considering other statutory advocates for Care Act advocacy.

4. THE PROPOSAL

Current Position

- 4.1 Each of the four statutory advocacy services for adults is commissioned under a separate arrangement for Reading currently, and six separate organisations provide the advocates. A further separate provider is commissioned to provide advocacy support to children.
- 4.2 The IMCA service for Reading is commissioned jointly with the other Berkshire local authorities, under Wokingham's lead, under a contract which runs through into 2018-19. The provider has consistently met its targets and delivered the service to the standard specified. Client engagement has risen after a recent court ruling expanded service eligibility to a much wider group of clients. As such, no efficiency savings have been identified as realisable at this stage.
- 4.3 The IMHA, NHS Complaints and Care Act advocacy services are all commissioned under arrangements which have been extended into 2017-18 only, and there is an overlap between services and providers.

Option Proposed

- 4.4 The proposal is to re-commission IMHA, ICAS and Care Act advocacy under a single contract offered either to a sole provider or to a lead provider who would offer a single point of contact but may sub-contract some or all of the services. The model would provide for an annual brokerage / co-ordination fee with advocacy services then purchased as required at an agreed hourly rate. Statutory advocacy provision needs to draw on expertise with different client groups, and the sub contracting option would allow for the involvement of several organisations if the requisite expertise did not exist within a sole/lead provider.
- 4.5 The proposed option would largely meet the expressed demand for a one stop shop for adult advocacy, although IMCA provision could remain separate for the time being, subject to the outcome of the tendering exercise. All other referrals for advocacy provision would go to one place and the provider would determine the most appropriate advocate to provide the service.

Other Options Considered

4.6 *Re-commission all adult advocacy provision through a single process*

This would mean that all referrals for advocacy provision (including IMCA) would go to one place and the provider would determine the most appropriate advocate to provide the service. This would involve an early withdrawal from the pan-Berkshire IMCA contract and could potentially destabilise the provision of a sensitive service, so is not recommended at this time.

4.7 *Re-commission children's and adults' advocacy services through a single process*

Market analysis indicates it could be difficult to identify a provider willing and able to provide advocacy to both adults and children. Providers tend to specialise in serving adults or children rather than both, so a single provider would need to invest in new staff or additional training in order to deliver a single contract. There could potentially be advantages in supporting young people through transition via an all age advocacy contract. However, support for that cohort is already part of the commissioned self-advocacy service. The potential advantages do not outweigh the likely disadvantages / disincentives to bid, so this option is not recommended.

4.8 *Maintain the current commissioning arrangements*

This would mean re-commissioning individual advocacy types separately. This approach could result in more or less overlap between services and providers than we have currently. It is unlikely to lead to a one stop shop with the customer benefits and efficiencies this is expected to achieve. This option is not recommended.

5. CONTRIBUTION TO STRATEGIC AIMS

5.1 The services and proposals outlined in this report contribute to meeting the following priorities set out in the Council's Corporate Plan 2016-19:

- Safeguarding and protecting those that are most vulnerable
- Remaining financially sustainable to deliver these service priorities

6. COMMUNITY ENGAGEMENT AND INFORMATION

6.1 RBC has consulted with the existing service providers and asked for feedback in reviewing a draft specification for the new service to be commissioned. The existing voluntary sector providers were met with separately to discuss the Council's intentions and have also been part of the wider provider engagement event.

6.2 Anecdotal feedback from service users and providers is that current advocacy arrangements are confusing. The new arrangements proposed are intended to offer a clearer pathway and so improve take up by those entitled to advocacy support.

7. EQUALITY IMPACT ASSESSMENT

7.1 The proposal is to retain the same level of service provision as is currently provided, but to simplify access. The services will remain available to all clients who require it, with no change in availability, and therefore no equality impact is foreseen.

8. LEGAL IMPLICATIONS

- 8.1 The local authority is under a duty to make available independent advocates for people who meet criteria set out in the Mental Health Act (2007), the Health and Social Care Act (2012) and the Care Act (2014). The combined advocacy service would meet the Council's duties in relation to advocacy provision under each of these statutes. In addition, the service would enable the Council to meet its duties to offer support for those who need it to understand the social care complaints process.

9. FINANCIAL IMPLICATIONS

Capital

- 9.1 There are no capital implications arising from the proposal set out in this report.

Revenue

- 9.2 The projected spend on IMHA, Care Act and NHS Complaints advocacy services in 2016-17 is £140,000. This sum will be the annual budget for the new combined advocacy service.

Value for money

- 9.3 The Council hopes to achieve better value for money by providing a service via a single point of referral, and this efficiency gain should offset the cost of meeting any increase in take up. This has been the experience of neighbouring authorities which have already moved towards commissioning statutory advocacy services under a single contract.

Risk

- 9.4 The commissioning model proposed ties the authority's expenditure more closely to the total amount of statutory advocacy purchased than do current arrangements. This will limit the authority's risk of overcommitting budgets. Demand may increase beyond budgeted capacity, but regular contract monitoring will identify this early so that remedial action may be taken.