

DERBYSHIRE COUNTY COUNCIL

CABINET

20 September 2016

Report of the Strategic Director of Adult Care

ADVOCACY

ADULT CARE

1. Purpose of the Report

To seek Cabinet approval to procure Care Act Independent Advocacy services and non-statutory community advocacy from 1 April 2017 for a period of two years, with annual options for the Council to extend for up to three further periods of twelve months.

2. Information and Analysis

2.1 Context

As part of the Voluntary and Community Sector (VCS) Funding Review, a thematic review of non-statutory advocacy services was initiated in November 2015 in partnership with the four Derbyshire Clinical Commissioning Groups (CCGs). On 15 March 2016, Cabinet gave approval to continue to grant fund payments for the existing Independent Advocacy service provision for up to a 12 month period from 1 April 2016 to 31 March 2017 whilst the strategic review was completed. Cabinet also agreed that commissioning proposals should be developed to ensure that any future service provision meets Adult Care's statutory requirements as identified in the Care Act 2014 and its identified service priorities.

The objectives of the Advocacy strategic review were to

- Understand what is working well with current service provision and to identify any gaps in current provision, areas for improvement and to identify any particular areas of priority
- Consider how the statutory duty for the provision of Care Act 2014 Independent Advocacy could be met by the Council
- Consider how to extend the geographical reach of current provision to cover areas of unmet need and to ensure an equitable advocacy offer for people living in Derbyshire (excluding Derby City)

- Consider the implications of proposed cuts to grant funding for VCS providers of advocacy
- Consider what should be included in the scope for commissioning proposals going forward
- Consider the most efficient and effective way to re-provide these services in future

Statutory duties for Independent Advocacy

From April 2015 the Care Act 2014 placed a new statutory duty on Local Authorities to involve people in decisions made about them and their care and support. This includes the involvement of a person in their assessment; the preparation and review of their care and support plan, as well as in safeguarding enquiries and Safeguarding Adult Reviews. The duty requires the Local Authority to provide an Independent Advocate to anyone who a) would otherwise have a substantial difficulty being involved in these processes and b) doesn't have anyone appropriate to support their involvement and/or represent their wishes.

The appropriate person cannot be a paid worker or professional involved in the individual's care; someone the person does not want to support them; someone who is unlikely to be able to, or available to, adequately support the person's involvement; someone implicated in an enquiry into abuse or neglect or who has been judged by a safeguarding adult review to have failed to prevent abuse or neglect.

The Care Act 2014 defines four areas where people may experience 'substantial difficulty':

- 1) understanding relevant information;
- 2) retaining information;
- 3) using or weighing information and
- 4) communicating views, wishes and feelings.

CCGs also have duties under the Equalities Act 2010, the Human Rights Act 1998 and the NHS Constitution for England, to ensure that vulnerable people have fair and equal access to services. In practice, around a third of all current non-statutory advocacy provision relates to health processes or health services.

In March 2015, interim arrangements were made with existing grant-funded advocacy providers, to meet the demand for Independent Advocacy within current resources in relation to the Care Act 2014, whilst the strategic review was carried out.

During 2015/16, demand for Independent Advocacy in relation to the Care Act 2014 has been lower than forecast and this is reflected as a national picture across the country. There is no clear evidence for the low take-up.

Between 1 April 2015 and 31 March 2016, 5729 Adult Care clients were identified as having a 'substantial difficulty'. The majority of these clients (5581) had an 'appropriate individual' (family member or friend) to support them to be involved in our processes, with the remaining 148 clients needing to access statutory advocacy. Of these 148 clients, 85 required an Independent Advocate in relation to the Care Act 2014.

It is anticipated that the need for Independent Advocacy in relation to the Care Act 2014 is likely to be higher than this. The review has highlighted some areas for improvement in the current approach, including recording and it is expected that these improvements will lead to a higher number of referrals for Independent Advocacy in the future.

Other statutory advocacy provision for adults in Derbyshire

A procurement exercise was carried out during 2015-16 for other non-Care Act statutory advocacy services which include Independent Mental Capacity Advocacy (IMCA), Paid Representatives in relation to Deprivation of Liberty Safeguards (DoLS), Independent Mental Health Advocacy (IMHA) and NHS Complaints Advocacy. These were statutory duties placed on local authorities prior to the Care Act 2014. The contract is held by Derbyshire MIND and also includes non-statutory IMHA for those patients who are voluntarily admitted to a mental health acute bed.

Summary of current provision

Derbyshire has a history of providing non-statutory community advocacy to vulnerable people who need help to ensure their voice is heard in health and social care processes. These arrangements are jointly funded by Derbyshire County Council (DCC) and the four CCGs. Community advocacy also includes support for people to resolve issues they are experiencing in their life, for example, debt and finance related issues, housing related issues, employment and legal issues.

The current non-statutory community advocacy offer is delivered through eight voluntary sector providers who largely work with specific client groups and within certain geographical localities. These grant-funded arrangements have evolved historically over time with no logical approach to funding allocations or to the geographical areas that individual providers cover. This has led to an inequitable offer for people across Derbyshire, as well as different models of service being delivered in different areas of the County.

The current service delivery arrangements for community non-statutory advocacy for adults in Derbyshire are detailed in Fig. 1 below:

Fig. 1

Client Group	Geographical Area Covered	Provider
Learning Disability	Countywide	Derbyshire Advocacy Service
Physical Disability	Countywide	DDCIL
Learning Disability Mental Health Older People	High Peak, NE Derbyshire, Derbyshire Dales	Peaks & Dales Advocacy
Mental Health	Amber Valley & Erewash	Derbyshire MIND
	Chesterfield, Bolsover, North East Derbyshire	Citizens Advice Chesterfield
	South Derbyshire	South Derbyshire CVS
Older People	Chesterfield & NE Derbyshire	Age Concern
	Amber Valley & Erewash	Age UK (Derby & Derbyshire)

2.2 Findings of the review

A strategic review of current advocacy arrangements was conducted between December 2015 and March 2016. The review process included:

- A stakeholder engagement workshop with current grant funded advocacy providers
- Individual visits to current grant funded advocacy providers
- A survey of current service users
- Meetings and discussions with Prevention and Personalisation managers and staff; the Adult Care Principal Social Worker and Senior Practitioners
- Meetings with CCG Commissioners
- A desktop review to identify best practice and other Local Authority approaches
- Analysis of Provider contract monitoring information.

Key findings from the review are set out below:

- Care Act Independent Advocacy and non-statutory community advocacy are inextricably linked and it would not make sense to commission these separately. People often have a complex set of issues and while their primary need may be Care Act Independent Advocacy, they may also need support with addressing other issues to promote and maintain their independence and improve their overall wellbeing.
- A single point of access (SPA) would provide a clear and simple way both for professionals and members of the public to make referrals to and access advocacy support. This is in line with approaches of other Local Authorities such as Lincolnshire, Lancashire, Cumbria and Manchester.

- Continued uncertainty in relation to funding decisions has prevented most providers in training their advocates to Care Act minimum standards. Any future funding allocations must include a requirement that all professional advocates delivering Care Act Independent Advocacy must be working towards or have achieved a Level 3 City & Guilds qualification in Independent Advocacy in their first year of practice.
- There are opportunities to expand the reach of volunteer advocates with a focus on the less complex elements of advocacy provision. This would enable professionally trained Independent Advocates to focus on the most complex scenarios including, but not limited to, health and social care assessments and hospital discharge planning.
- A prioritised approach to advocacy, based on need would benefit the most vulnerable people to ensure they receive timely and effective support. This needs to apply to both statutory and non-statutory provision and could be facilitated through the triage point in the SPA.
- Advocacy should be commissioned according to geographical boundaries rather than by client group. This would ensure there is equity of access for all vulnerable people across the County and reduce any duplication, resulting in more efficient ways of working.
- There needs to be clearer arrangements for provision of Independent Advocacy for Derbyshire residents who are temporarily out of the county (for example in a hospital in a neighbouring local authority). This may require willingness for advocates to travel over borders and/or for provider(s) to have reciprocal arrangements in place with neighbouring providers.
- Staff development to raise awareness of the new arrangements amongst Prevention and Personalisation Teams will be required, to ensure they have a sound understanding of the criteria in relation to 'substantial difficulty' and 'appropriate individual', and how to refer for support.
- A new and consistent approach to collecting and recording data by advocacy providers would provide more timely and accurate information. At present there are different modes of collecting monitoring data which makes it difficult to compare activity and quality across different Providers.
- Moving from a grant funding regime to a commissioned approach for future service provision, will ensure that a clear and consistent service specification can be delivered across the county. This will provide equity of access for all client groups, including those with additional communication needs.

2.3 Proposed future delivery model

It is proposed that a competitive tender process is undertaken to commission both Care Act Independent Advocacy and non-statutory community advocacy within the same service specification. The tender would offer a block contract with a lead provider or consortia of providers. The provider(s) would provide advocacy for vulnerable people rather than specific client groups. They would be encouraged to ensure that they have individual advocates that have specialist knowledge and expertise of supporting people with mental ill health, dementia, physical disabilities and learning disabilities.

To simplify access and make it as easy as possible for vulnerable individuals and professionals to make referrals, a SPA providing initial triage is proposed. The SPA would be operated by suitably skilled staff who would be able to provide accurate information from the outset, prioritise cases where required and/or proactively signpost people to other services that could better meet their needs.

There are opportunities to expand the number and role of volunteer advocates, to support professional advocates and to deliver advocacy for people with less complex needs. Two providers currently have an embedded volunteer citizen's advocacy model and during the review most providers signalled their interest to do something similar. Other national providers of advocacy such as POWhER also recruit volunteer advocates to support their delivery model.

A clear system of prioritisation would be used so that the Council's statutory duties under the Care Act 2014 can be met effectively and efficiently, whilst still ensuring that the most vulnerable people requiring non-statutory advocacy can access help in a timely way. This would be managed by providers and monitored quarterly through contract management meetings to ensure there is sufficient oversight and accountability.

Improved and consistent monitoring data and regular contract monitoring meetings would provide the required commissioning intelligence to accurately anticipate and forecast demand and service take-up across client groups and geographical areas.

Care Act advocacy is a statutory duty under the Care Act 2014 and a long-term funding commitment would give providers assurance and stability to recruit and invest in both professional and volunteer advocates. Therefore it is recommended that a minimum contract of two years is procured, with the option to extend this by three further twelve month periods if it is working effectively. A procurement process would commence subject to Cabinet approval and a further report will be brought back to a future Cabinet meeting requesting approval to award the contract.

3 Legal Considerations

The Cabinet report of March 15 2016 stated that a public consultation process would be required before commissioning proposals were brought back to Cabinet. However, as the proposals only involve a possible change of provider and refinements and improvements to the service, rather than a significant change in service, the duty to formally consult does not arise. The decision making process has however, been fully informed by the strategic review as set out in this report.

There would need to be a minimum of three months' notice to cease funding to current grant funded services, in line with the Voluntary Sector Compact. The intention to cease grant funded arrangements was made clear in the Cabinet report of 15 March 2016. However, if this procurement plan as referenced in this paper is agreed, all Providers referred to in this report that are currently in receipt of a grant due to end on the 31 March 2016, will receive further notification of the end of their grant and advice that they can bid for the contract to be advertised either alone or as part of a consortia arrangement.

The procurement will be undertaken in accordance with the European Procurement Regulations 2015.

4 Financial Considerations

On 15 March 2016, Cabinet approved a continuation of current grant funded arrangements for a period of up to twelve months whilst this procurement process is carried out. If this proposal is approved, then procurement will commence with new services anticipated to be in place by 1 April 2017.

Adult Care currently invests £0.317m in non-statutory advocacy (excluding IMCA and IMHA). CCG's currently invest £0.167m equating to 34% of overall funding. The current funding allocations are shown in Fig.2 below:

Fig. 2 Current funding allocations

Provider	2016-17 DCC Grant Funding	2016-17 CCG Grant Funding	Total 2016-17 Funding
Derbyshire Advocacy Service	£120,817	£21,801	£142,618
DDCIL	£20,848	-	£20,848
Peaks & Dales Advocacy	£56,208	£37,020	£93,228
Derbyshire MIND	£19,218	£48,024	£67,242
Citizens Advice Bureau Chesterfield	£39,712	£26,936	£66,648
South Derbyshire CVS	£14,155	£22,525	£36,680
Age Concern	£10,741	£10,741	£21,482
Age UK (Derby & Derbyshire)	£35,433	-	£35,433
	£317,132	£167,047	£484,180

Each CCG has taken this advocacy procurement proposal through its own approval processes for funding agreement and have confirmed their current funding commitment, with the exception of North Derbyshire who is reducing their funding contribution by 3%.

The Council's funding commitment of £0.317m will be met from within the existing budget allocation for these services. CCGs will contribute £0.165m making the overall budget for the proposed service £0.482m.

All current grant funded arrangements are due to cease as at 31 March 2017.

5 Social Value Considerations

Social value will be embedded in the contract and form part of the evaluation of tenders. The service(s) will promote support for vulnerable people at an early stage which will reduce the demand for more costly interventions when people are in crisis situations. Interventions such as supporting family life, connecting people with welfare support and strengthening awareness of the sources of community support will promote well-being and resilience. The provider(s) will be expected to develop and promote a range of volunteering opportunities and will be encouraged to bring in additional revenue and capital resources into Derbyshire by applying for grants which complement activities funded through the contract.

6 Other Considerations

In preparing this report the relevance of the following factors has been considered: Human Resources, Human Rights, equality of opportunity, health, environmental, transport, property and crime and disorder considerations.

This change will enable the Council and other funding partners to link funding to meet the Health and Wellbeing Board and Care Act strategic priorities in a planned way and offer providers greater surety of funding and expectations. As a consequence of this change in approach, it is likely that some of the services currently funded by Grant Aid funding will no longer receive this financial support after 31 March 2017.

7 Key Decision

No

8 Call-in

Is it required that call-in can be waived in respect of the decisions made in this report?

No

9 Background Papers

Cabinet Paper 15 March 2016 - Extension of Grant Funding in 2016-17 Adult Care Service Statutory priorities

Department of Health 2016 - Care and Support Statutory Guidance: Independent Advocacy

10 Officer's Recommendation

That Cabinet approves for the Council to procure Care Act Independent Advocacy services and non-statutory community advocacy from 1 April 2017 for a period of two years, with annual options for the Council to extend for up to three further periods of twelve months.

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