

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Member for Younger Adults and Health and Wellbeing
<b>Date:</b>	19 September 2023
<b>Title:</b>	Re-procurement of Hampshire Advocacy Services
<b>Report From:</b>	Deputy Chief Executive and Director of Adults' Health and Care

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### Purpose of this Report

1. The purpose of this report is to seek permission to spend up to £5,867,250 over a 5-year contract (3-year initial term with up to two year extension) to re-procure Advocacy services across Hampshire with a start date of 1 April 2024.

### Recommendation

2. That the Executive Member for Younger Adults and Health and Wellbeing give approval to spend up to £5,867,250 over 5 (3-year initial term with up to two-year extension) years for Advocacy services across Hampshire.

### Executive Summary

3. This report seeks the permission of the Executive Member for Younger Adults and Health and Wellbeing to spend £5,980,000 over the maximum 5-year term of the contract to re-procure Advocacy services from 1 April 2024. This value includes contributions from Adults Health and Care, Children's Services, Hampshire and Isle of Wight Integrated Care Board (HIOW ICB) and Frimley Integrated Care Board (Frimley ICB).
4. This report seeks to
  - Set out the background of the current Advocacy Services commissioned by the County Council
  - Consider the finances for the existing and proposed new contracts. contract
  - Set out briefly the proposed timeline for re-procurement of the contract.

## Contextual information

5. Advocacy services support someone or act on behalf of an individual to represent their views, interests and wishes within formal processes, assessments, hearings and interactions with other groups and organisations on a range of subjects that affect them and their lives.
6. The requirement for Advocacy services is set out in several key pieces of legislation and statutory guidance:
  - Care Act 2014 and the Care and Support statutory guidance for independent advocates for people using social care services
  - Mental Capacity Act 2005 and its Code of Practice for Independent Mental Capacity Advocates (IMCAs) and Relevant Person's Representative under Deprivation of Liberty Safeguards (DoLS)
  - Mental Health Act 1983 and its Code of Practice for Independent Mental Health Advocates (IMHAs)
  - The Health and Social Care Act 2012 amended the Mental Health Act 1983, transferring the responsibility for commissioning IMHAs to Local Authorities
  - Local authorities must also make appropriate arrangements for independent advocacy services to aid people making or intending to make complaints as described in the Health and Social Care Act 2012
  - The Local authority also has the power and in line with published NICE guidelines to offer advocacy to people who are not covered by the legal entitlement but who would otherwise not be able to express their views or sufficiently influence decisions that are likely to have a substantial impact on their wellbeing or the wellbeing of someone they have caring or parental responsibility for
7. The current contract ends on 31 March 2024, and a new advocacy service is therefore required to ensure continuity of statutory service provision. The current contract provides both statutory and non-statutory advocacy services, with Hampshire and IOW Integrated Care Board, Frimley Integrated Care Board and Children's Services providing financial contributions.
8. For individuals eligible for a Relevant Persons Representative (RPR) under DoLS the current contract covers those who are within the border of Hampshire County Council and who are ordinarily resident in Hampshire. However, those who are placed out of county are not covered by the contract and we purchase these services on a spot purchase basis. The proposal for the new service is for the budget currently utilised for spot purchase arrangements to be incorporated into the overall contract for the service.
9. The County Council has Section 256 agreements (NHS Act 2006) with what were formally known as the 5 Hampshire Clinical Commissioning Groups (CCGs) which as of July 2022 were formally constituted as Integrated Care Boards. The current Section 256s are aligned with the term of the Advocacy Contract and will end on 31 March 2024. This proposal requires securing a

new agreement with both Hampshire & IOW and Frimley ICBs to align with the new contract.

10. It is proposed that Adults' Health and Care will procure the new Advocacy Service, acting as lead partner and receiving financial contributions from the other named partners. The County Council will lead the procurement, hold the contract and administer it (via contract monitoring arrangements). Contributing partners would be party to the contract monitoring arrangements receiving regular updates and reports.

## Finance

11. Whilst this report seeks the permission of the Executive Member for Younger Adults and Health and Wellbeing to spend up to £5,867,250 to re-procure an Independent Advocacy service, only £5,080,000 is due to come from Adults' Health and Care. This amount is within the existing budget limit for the service and does not represent a new pressure.
12. The RPR out of area budget of £67,000 has been included in the overall Adults' Health and Care budget above. This amount is within the existing budget for the service and does not represent a new pressure.
13. The remaining balance of £787,250 planned is to come from other named partners, namely HCC Children's Services, HIOWICB and Frimley ICB who will secure their own approval to spend for their financial contributions.
14. Partner Funding Contributions

	Annual	Duration in years	5 year total
Adults	£1,016,000	5	£5,080,000
Childrens	£65,000	5	£325,000
ICBs (HIOW & Frimley)	£92,450	5	£462,250
<b>Total</b>	<b>£1,173,450</b>	<b>5</b>	<b>£5,867,250</b>

15. Commitment to funding from partners will be required to be in place prior to tender commencement, by way of a Section 256 Agreement in place with our NHS partners, and for Children's Services, confirmation they have gone through their approvals process for the relevant contribution.
16. Commitment to funding will need to cover the contract and service for the full term inclusive of any extensions. Only after these assurances are complete can the County Council sign up to the full array of proposed services, without which the County Council can only contract for the services that Adults' Health and Care have funding for to avoid risk of further pressure to the Adults' Health and Care budget.

17. Within the proposed contract, confirmed funding contributions from named partners will be directed at specific advocacy types, as described in the table below.

Financial Contributions				
Type	For Information only to be signed of via named partner			
	HCC – For approval	Children’s Services	HIOW ICB	Frimley ICB
Adults Statutory Advocacy	£ 789,000			
Children’s Statutory		£65,000		
NHS Independent complaints	£140,000			
Co-production and Inclusion	£87,000			
General MH Advocacy			£82,450	£10,000
Totals	£1,016,000	£65,000	£82,450	£10,000

## Performance

18. The current service launched during the height of the Covid-19 Pandemic in April 2020. Statistics and figures on performance should be reviewed in light of a challenging and exceptional set of contextual circumstances for the service.
19. Across all areas of advocacy, there have been increasing levels of both demand and complexity in Advocacy referrals.
20. The current service has supported over 8,000 advocacy cases within Hampshire during the first 3 years of the contract, with a further circa 2,700 expected during 2023/2024. The Advocacy services support the County Council to meet its statutory obligations but also the overarching aim of the County Council to maximise independence and provide strengths-based support to individuals.
21. Statutory advocacy in the form of a DoLS Relevant Persons Representative represents around 875 cases and of those 275 are out of area and are not covered by the existing contract. The new contract arrangements will cover these out of area cases.

22. Co-Production and Inclusion Advocacy supports those who have a Learning Disability, Autism, or both to participate in our partnership boards, to self-advocate, participate in co-production activity and to navigate housing related issues or interactions with formal processes as parents.
23. Advocacy directly supports the strategic aims of the Adult's Health and Care Strategy. Specifically, by supporting individuals to help themselves and have their voice heard within their assessments and by working alongside service users and family carers to promote wellbeing.
24. Significant changes to the process for safeguarding people under high levels of care and supervision have been in circulation at a national level for a few years, and it is apparent that this may have a significant impact on the demand for Advocacy services. The proposed move from the current Deprivation of Liberty Safeguards (DoLS) to Liberty Protection Safeguards (LPS) has now been further delayed.
25. The County Council and partners will need to consider the impact of these changes when, or if, further information and guidance is available. This may be during the five-year duration of the new contract which will commence in April 2024

### **Timeline for Procurement**

26. Subject to Executive Member approval and the receipt of the funding commitments outlined previously, it is proposed that procurement activity would commence in Autumn 2023, with the new contract commencing on 1 April 2024.

### **Consultation and Equalities**

27. The proposed procurement would not be subject to formal consultation. It is proposed to seek the views of service users to inform the service specification for the new contract and in the formulation of Key Performance and Quality Indicators which support ongoing contract management.
28. Statutory advocacy must be provided under the following pieces of legislation: Mental Health Act 1983 (MHA), Children Act 1989, Mental Capacity Act 2005 (MCA) and the Care Act 2014. Eligibility for advocacy is determined by each individual piece of legislation which is prescriptive in terms of who it does (and does not) apply to.
29. All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status. Advocacy can be provided in a person's home (or via technologies such as ZOOM, or Skype where appropriate) or a place of their choosing so will not disadvantage people living in rural areas or who find travelling difficult.

## **Climate Change Impact Assessment**

30. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.
31. A full assessment of climate change vulnerability was not completed as the initial vulnerability assessment showed that the project is at minimal risk from the climate vulnerabilities. The Advocacy Service does not utilise or come with any significant built infrastructure. The service does require advocates to travel and meet people, sometimes utilising public transport, which may be impacted by adverse weather events however, there are no reasonable mitigations that the service can directly affect and the pausing or rescheduling of advocate appointments would be a reasonable response in the face of such events. The service also utilises remote delivery to interact with individuals when this is appropriate such as, email, video call, telephone or letter reducing the carbon emissions impact of the service where possible.

## **Conclusions**

32. The current advocacy contract represents an effective partnership arrangement, through which Hampshire County Council and other statutory agencies commission a range of statutory and co-production and inclusion advocacy services in Hampshire. The proposal outlined in this paper represents a continuation of these effective partnership arrangements and would demonstrate the County Council's ongoing commitment to maintaining its current level of investment in these services.
33. The continuation of Advocacy services as recommended within this paper will continue to support the delivery of the strategic aims of Hampshire County Council. Providing support to the most vulnerable and enabling them to participate fully within the processes that affect them, their lives, their wellbeing and ensuring their voices are heard.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	no
<b>People in Hampshire live safe, healthy and independent lives:</b>	yes
<b>People in Hampshire enjoy a rich and diverse environment:</b>	no
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	yes

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
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### **2. Equalities Impact Assessment:**

2.1 Statutory advocacy must be provided under the following pieces of legislation: Mental Health Act 1983 (MHA), Children Act 1989, Mental Capacity Act 2005 (MCA) and the Care Act 2014. Eligibility for advocacy is determined by each individual piece of legislation which is prescriptive in terms of who it does (and does not) apply to.

2.2 All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status. Advocacy can be provided in a person's home (or via technologies such as ZOOM, or Skype where appropriate) or a place of their choosing so will not disadvantage people living in rural areas or who find travelling difficult.

## **Service Affected: Hampshire Advocacy Services**

### Service Description:

Advocacy services support someone or act on behalf of an individual to represent their views, interests and wishes within formal processes, assessments, hearings and interactions with other groups and organisations on a range of subjects that affect them and their lives.

The current contract provides both statutory and non-statutory advocacy services with Hampshire and IOW Integrated Care Board (HIOWICB), Frimley Integrated Care Board and Children's Services providing financial contributions.

### Service Change:

The current contract ends on 31 March 2024, and a new advocacy service contract is therefore required to ensure continuity of statutory service provision.

Geographic Impact: All Hampshire

Engagement/Consultation: No but intend to or planned

Engagement Consultation detail:

The plan is to undertake Service User Engagement using a variety of methods – letters, online and postal questionnaires, attendance at key meetings, facilitation of focus groups to ensure that the views of current clients and/or their nominated or authorised person/carer are objectively identified, that we manage the engagement process in an impartial and robust manner and identify key service user objectives/outcomes which will be incorporated into the new service delivery model post April 2024.

Additional Information: None

Impact Assessment

Age

Public Impact

Positive

Staff Impact

Neutral

Decision Rationale

This contract covers all ages, both older and younger adults cohorts and children's, and therefore will be available to anybody eligible in Hampshire across all care groups.

Whilst the service is not designed to directly impact age, we expect the service to serve a range of adults across a wide range of ages. To ensure there is no discernible negative impact on any group or individual regardless of their protected characteristics, including age, the service will report on the demographics of the population they provide a service to. Statutory advocacy must be provided under the following pieces of legislation: Mental Health Act 1983 (MHA), Children Act 1989, Mental Capacity Act 2005 (MCA) and the Care Act 2014. Eligibility for advocacy is determined by each individual piece of legislation which is prescriptive in terms of who it does (and does not) apply to.

As set out in the KPIs, the provider must report on all advocacy referrals by age bracket, ensuring we have oversight that the service is being provided to the numbers we expect based on the Hampshire demographic.

The service provides statutory advocacy to Children, with numbers stable over the 3 years of the current contract, with 79 new cases in Year 1, 71 in Year 2 and 89 in Year 3.

#### Mitigation/Actions

Disability

Public Impact

Positive

Staff Impact

Neutral

#### Decision Rationale

This contract is pan-disability, accessible for those in Hampshire across all care groups resulting in a positive impact for those with a disability.

Statutory advocacy must be provided under the following pieces of legislation: Mental Health Act 1983 (MHA), Children Act 1989, Mental Capacity Act 2005 (MCA) and the Care Act 2014. Eligibility for advocacy is determined by each individual piece of legislation which is prescriptive in terms of who it does (and does not) apply to.

The service user consultation and inclusion of qualified area expertise will result in a service specification built around those that the service will be provided for. Having views of the service users will help ensure that the service will meet the requirements of those using the service and will reflect their views/wishes on current/previous experiences, resulting in a focused and fit for purpose contract. The provider is also contractually expected to adhere to the Suicide Prevention Guidance, set out by Public Health England, where it states:

"Public Health England exists to protect and improve the nation's health and wellbeing and reduce health inequalities. We do this through world-leading science, research, knowledge and intelligence, advocacy, partnerships and the delivery of specialist public health services."

#### Mitigation/Actions

Gender Reassignment

#### Public Impact

Neutral

#### Staff Impact

Neutral

#### Decision Rationale

This contract provides advocacy services for all those eligible in Hampshire across all care groups, and therefore gender reassignment will not be impacted. As part of the KPI reporting, the provider will report on demographics of received referrals for those that are:

Female, male, gender neutral, non-binary, prefer not to say, Transgender - Female, Transgender - Male, unknown/undisclosed

#### Mitigation/Actions

Pregnancy & Maternity

#### Public Impact

Neutral

#### Staff Impact

Neutral

#### Decision Rationale

This contract provides advocacy services for all those in Hampshire across all care groups, and therefore will not impact pregnancy & maternity.

Non-statutory advocacy delivered by this service does however, support parents who have LD and/or Autism whose children may be subject to formal processes. Helping them to exercise their rights as parents and providing advocacy during these processes when required.

## Mitigation/Actions

Race

## Public Impact

Positive

## Staff Impact

Neutral

## Decision Rationale

This contract provides advocacy services for all those in Hampshire across all care groups, and therefore will not impact race.

The service specification also requires the provider to meet certain quality standards as described within the specification and set out as key documents in the appendix, these requirements are governed by the terms of the contract. This includes the Advocacy Charter, set out by the National Development Team for Inclusion (NDTI). By agreeing to this, the advocacy provider must:

Have an up to date Equality and Diversity Policy that recognises the need to be pro-active in tackling all forms of inequality, discrimination and social exclusion so that all people are treated fairly.

Ensure advocates' time will be allocated equitably.

Ensure advocates make reasonable adjustments to ensure people have appropriate opportunity to engage, direct and benefit from the advocacy activity.

The provider must also adhere to Hampshire County Council's Inclusion Strategy, where it states we want to "support people from all different communities and backgrounds".

## Mitigation/Actions

Religion or Belief

## Public Impact

Neutral

## Staff Impact

Neutral

## Decision Rationale

This contract provides advocacy services for all those in Hampshire across all care groups, and therefore will not impact religion or belief.

The service specification also requires the provider to meet certain quality standards as described within the specification and set out as key documents in the appendix, , these requirements are governed by the terms of the contract.. This includes the Advocacy Charter, set out by the National Development Team for Inclusion (NDTI). By agreeing to this, the advocacy provider must:

Have an up to date Equality and Diversity Policy that recognises the need to be pro-active in tackling all forms of inequality, discrimination and social exclusion so that all people are treated fairly.

Ensure advocates' time will be allocated equitably.

Ensure advocates make reasonable adjustments to ensure people have appropriate opportunity to engage, direct and benefit from the advocacy activity.

#### Mitigation/Actions

Sex

#### Public Impact

Neutral

Neutral

#### Staff Impact

#### Decision Rationale

This contract provides advocacy services for all those in Hampshire across all care groups, and therefore will not impact sex. The KPIs within the reporting of the contract requires the provider to report on the demographics of received referrals and open cases, on a quarterly basis. This ensures oversight that the service being provided is in line with the wider demographic of those living in Hampshire. Within the latest reporting of the current contract, the service was provided to

1342 Women

1225 Men

with a ratio of 134:123. This is roughly in line with the Hampshire demographic of 100:98.5 (100 females to 98.5 males).

#### Mitigation/Actions

Sexual Orientation

## Public Impact

Neutral

## Staff Impact

Neutral

## Decision Rationale

All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status. Advocacy can be provided in a person's home (or via technologies such as ZOOM, or Skype where appropriate) or place of their choosing so will not disadvantage people living in rural areas or who find travelling difficult.

Within the KPIs of the contract, the provider must report on the demographics of those referrals received, broken down by:

"Asexual", "bisexual", "heterosexual", "homosexual/gay/lesbian", "don't know", "prefer not to say", "prefer to self-describe", "unknown".

Approximately 3.1% of Hampshire's demographic identify themselves as either "Homosexual/Gay/Lesbian", "Bisexual" or "Other Sexual Orientation" (not including heterosexual). The latest reporting from the current contract shows the 0.71% of the service provided is to those identifying as either "Homosexual/Gay/Lesbian", "Bisexual" or "Other Sexual Orientation". While this isn't in line with the Hampshire demographic, 51.5% of those accessing the service chose either "Unknown" or "Prefer Not to Say".

## Mitigation/Actions

Marriage & Civil Partnership

## Public Impact

Neutral

## Staff Impact

Neutral

## Decision Rationale

All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status.

Being married or in a civil partnership will not preclude someone from accessing advocacy where they are deemed eligible. Data regarding marital status is not recorded by the service as it has no material bearing on the services delivered.

#### Mitigation/Actions

Poverty

#### Public Impact

Neutral

#### Staff Impact

Neutral

#### Decision Rationale

All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status.

If someone is financially disadvantaged it is possible advocacy may improve their financial situation by ensuring they access and receive services for which they are eligible, including benefits and concessions available to them. Advocacy would also represent their needs so, if travel or accessing assessment locations was challenging due to their financial circumstances and advocate would/could make requests for reasonable adjustments on their behalf.

#### Mitigation/Actions

Rurality

#### Public Impact

Neutral

#### Staff Impact

Neutral

#### Decision Rationale

All advocacy is provided free of charge to the person and regardless of their gender, sexual orientation, race or marital status. Advocacy can be provided in a person's home (or via technologies such as ZOOM, or Skype where appropriate) or place of their choosing so will not disadvantage people living in rural areas or who find travelling difficult.

As per Hampshire County Council's "Service Hampshire" strategic plan for 2021-2025, the plan focuses on four strategic aims, which the provider must adhere to. Two of those being "People in Hampshire enjoy being part of strong, inclusive communities" and "People in Hampshire enjoy a rich and diverse environment", meaning there will be no disparity in rural areas.