

LONDON BOROUGH OF CROYDON

REPORT:	OFFICER DELEGATED KEY DECISION	
DATE OF DECISION	[DATE OF MEETING IN FULL]	
REPORT TITLE:	Contract Award Report for Adult Advocacy Service Commissioning & Procurement Report (Part A)	
CORPORATE DIRECTOR / DIRECTOR:	<i>Bianca Byrne, Director of Adult Social Care Commissioning, Policy & Improvement Annette McPartland, Corporate Director Adult Social Care & Health (DASS & Caldicott Guardian)</i>	
LEAD OFFICER:	Thomas Taylor, Senior Contract and Commissioning Officer for Mental Health & Shirley Moyes – Strategic Commissioning Manager for Mental Health	
LEAD MEMBER:	Councillor Yvette Hopley, Cabinet Member for Health and Social Care	
DECISION TAKER:	<i>Annette McPartland, Corporate Director Adult Social Care & Health (DASS & Caldicott Guardian)</i>	
AUTHORITY TO TAKE DECISION:	As approved in the Annual Procurement Plan at Cabinet on the 27th of September 2023	
KEY DECISION? [Insert Ref. Number if a Key Decision]	Yes	REASON: The proposed total value of a new tender will be over £1 million KEY DECISION REFERENCE NO 0224HASC
CONTAINS EXEMPT INFORMATION?	YES	Exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 and the public interest in withholding disclosure outweighs the public interest in disclosure
WARDS AFFECTED:	All	

1 SUMMARY OF REPORT

- 1.1 The purpose of this report is to advise members of Contracts and Commissioning Board and the Cabinet Member for Health and Social Care in consultation with the Cabinet Member for Finance and Treasury of the procurement process for the Adults Advocacy Tender. The evaluation undertaken was to select the Most Economically and Quality

Advantageous Tender. Furthermore, this report recommends the award of a contract to the successful bidders as identified in the associated Part B report.

1.2 To approve the award for the following Lots:

- Lot 1 - Adult Advocacy covering Care Act, Independent Mental Capacity Advocates (IMCA), Relevant Person's Representative (RPR) Advocacy.
- Lot 2 - covering Independent Mental Health Advocates (IMHA) Advocacy for Adults with a Mental Health condition,

To the successful bidders named in Part B of this report, for the total contract value detailed in Part B of this report.

1.3 This contract will deliver high-quality advocacy service with a single point of contact for social workers and service users. The contract is grant-funded via the Better Care Fund (BCF) grant.

1.4. The contract will commence on 01st October 2024 for a seven (7) year period.

2 RECOMMENDATIONS

FOR CCB:

The Contracts and Commissioning Board (CCB) is requested to approve the recommendations in this report to the Corporate Director for Adult Social Care and Health.

FOR CORPORATE DIRECTOR

The CCB, with the approval of the Cabinet Member of Finance and Treasury and the Cabinet Member for Health and Social Care, recommends to the Corporate Director for Adult Social Care and Health, in line with the Annual Procurement Plan:

2.1 To approve the award of a contract for Adult Advocacy Services (Lot 1 Adult Advocacy covering Care Act, IMCA, Dols/RPR Advocacy; Lot 2 covering IMHA Advocacy for Adults with Mental Health) to the providers and for the contract values detailed in the associated Part B report, for a term of seven (7) years commencing on 01st October 2024

2.2 To note the names of the successful providers will be published upon the conclusion of the standstill period required under regulation 87 of the Public Contract Regulations 2015 and listed on the Councils Contract Register.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The present Advocacy Contract ends on the 30th of September 2024 after two permitted extensions, therefore, retendering was the only viable option. The procurement strategy to undertake a competitive tender to select a provider to deliver advocacy was agreed upon by the Procurement Board on 15th November 2023 (reference PB-2324-000020-S). A market engagement event was held on the 27th November 2023, which informed the procurement strategy and the revised service specification.
- 3.2 The contract term will be for a total period of seven (7) years commencing on 1st October 2024, with no possibility of extending the contract. The total contract value for the full seven years (7) is for a maximum estimated total contract value of £2,436,000. This is an annual value of £348,000 pa (plus potential additional purchases subject to surplus demand). The total amount over (7) seven years is split as follows:

Lot 1 - £1,551,102
Lot 2 - £884,898 over seven (7) years
- 3.3 The Service Specifications and Contracts set out the Council's requirements for the delivery and management of the services.
- 3.4 Bidders submitted Method Statements and responded to questions to setting out how they propose to meet the requirements of the relevant Contract. Details of the Method Statements questions answered as part of the Invitation to Tender are set out in the Tender Response Document.
- 3.5 Response to the questions/method statement requests form an important part of the evaluation process. Bidders were advised to submit all the information requested.
- 3.6 Each person on the evaluation panel individually scored the responses to the quality method statement questions. The scores for each response were graded in accordance to the procurement scoring framework of 0 – 5. 5 being an “excellent” score. Bidders were required to give a fair answer, i.e. a minimum score of 2 or more, for each response. A score below this figure would have resulted in the tender being rejected.
- 3.7 The evaluation panel met with the Procurement Officer to moderate and agree on scores and identify any questions for clarification with the bidders.
- 3.8 Financial checks were then carried on the two successful providers.

4. BACKGROUND AND DETAILS

- 4.1 The original contract was awarded on the 08th February 2018 (CCB reference: CCB1321/17-18) for a term of 3 years from 31st March 2018 to 30th April 2021 following an open competitive procurement process, with the option to extend for an additional two years, with a total contract value when awarded £1,741,255. The contract was awarded to Advocacy for All, who work alongside MIND in Croydon who provide the contract's mental health elements.
- 4.2 In April 2021, under the Extra Ordinary Investing in our Borough report, the contract was extended for 2021/22, enacting the first allowed-for extension period. The contract had a second permitted extension for 2022-2023.

- 4.3 An 18-month extension from 01st April 2023 – 30th September 2024 was agreed in April 2023 by Mayoral approval (**PB-2223-000025-EV 28/04/2023**) to enable the time needed to improve the existing contract and allow for the development of a new Advocacy model that is sustainable, robust, and in line with proposed changes to the Mental Health Act and the introduction of Liberty Protection Safeguards.
- 4.4 There was a slight deviation from the Strategy Report (PB-2324-0-00020-S) where it was agreed that Children’s Advocacy Provision, in which the contract was ending at the same time as the Adult Advocacy Provision on 30th September, 2024, would join the Tender for Adult Advocacy Provision as an additional Lot 3. All three opportunities went out as part of the same tender, but the Children’s Tender had its own Procurement Strategy Report (PB-2324-000031-S) and the tender was evaluated separately from Adults to ensure the relevant expertise was evaluating the children’s provision. The potential for a joint tender approach was stated within the Adults Advocacy Strategy Report under section 7.6. A separate award report will be circulated for approval in respect of Lot 3 for Children’s Advocacy
- 4.5 The current program for procurement is as follows. Dates are for indicative purposes only and could be subject to change.

Indicative Date	Activity
26 th February 2024	Advert / Contract Notice published with Tender Documents made available to potential providers
17 th March 2024	Deadline for clarification questions to be submitted by bidders via the Portal
27 th March 2024	Tender return date 12 noon
05 th July 2024	Successful and unsuccessful Tenderer(s) notified
15 th July 2024	Award letter to winning bidders
Aug 2024	Mobilisation period
01 st October 2024	Contracts go live

- 4.6 The tender opportunity was advertised on the Croydon’s InTend Portal on 26th February 2024 and closed on the 25th March 2024. A single-stage open tender procedure was followed in accordance with the Public Contract Regulations 2015 (PCR 2015) under the light touch regime.
- 4.7 A total of 8 providers accessed the tender documents on-line. Clarification questions were asked by three agencies, and the responses were shared with all potential bidders.
- 4.8 A total of seven providers (7) completed a tender application which were received in response to the advertisement. For Lot 1, five (5) providers applied for the tender in full. For Lot 2, two agencies (2) completed the tender application.
- 4.9 The Lots were broken down into specific statutory advocacy areas as follows:

For the purpose of Lot 1, the Service Specification will cover the following functions:

- Statutory Independent Mental Capacity Advocacy (IMCA)
- Statutory Independent Advocacy under the Care Act (ICSA)
- Statutory Deprivation of Liberty Standards (DoLS) conducted by Relevant Person's Representative (RPR)
- Statutory NHS Complaints Advocacy
- Information, Advice and Guidance (IAG) meeting obligations under section 4 of the Care Act, outwardly advertised as "Community Advocacy."
- Community DoLS-Rule 1.2 Rep
- Learning Disability General Advocacy Self Referral

For the purpose of Lot 2, the Service Specification will cover the following functions:

- Statutory Independent Mental Health Advocacy (IMHA)
- Mental Health General Advocacy

Initial compliance checks

4.10 Tenderers were required to complete a Standard Selection Questionnaire (SQ) and meet a series of compliance checks before quality and cost evaluation could be undertaken.

Professional and technical experience

4.11 All the bidders successfully passed the SQ stage and had the relevant experience to proceed to the technical and professional ability–quality evaluation stage.

4.12 In the evaluation criteria as published in the Invitation to Tender (ITT), Quality criteria were given a weighting of 60%, Social Value of 10%, and Price of 30% as set out in the procurement strategy and approved by the Procurement Board.

4.13 Each Lot had specific questions related to the area of Advocacy that the provider specializes in, and each Lot has its own service specification. The quality criteria and weightings which formed part of Stage 2 of the Evaluation Process were as follows:

Section 8	Social Value	5	10%	3
Section 9 – Project Specific Questions / Method Statements				
		Maximum Score	Weighting	Minimum Score
9.1	Workforce Organisation	5	10%	3
9.2	Key performance indicators & performance management	5	10%	3
9.3	Mobilisation & TUPE Transfer	5	10%	3
9.4	Expert staff team with a culture of continuous improvement	5	10%	3
9.5	Diversity and Inclusion	5	10%	3
9.6	Safeguarding	5	10%	3
9.7	Partnership Working	5	10%	3
LOT 1 only				
9.8.1a	NHS Complaints Advocacy Development	5	10%	3
9.8.1b	Independent Mental Capacity Advocacy (IMCA)	5	10%	3
9.8.1c	Statutory Care Act Advocacy	5	10%	3
LOT 2 only				
9.8.2a	Independent Mental Health Advocacy (IMHA)	5	30%	3

- 4.14 The Service Specifications and Contracts set out the Council's requirements for the delivery and management of the services and the desired outcomes in accordance to the themes of the [Making it Real – I / We statements](#).
- 4.15 Bidders submitted Method Statements setting out how they propose to meet the requirements of the relevant Contract. Details of the Method Statements questions answered were included in the Invitation to Tender are set out in the Tender Response Document.
- 4.16 Response to the questions form an important part of the evaluation process. Tenderers

were advised to submit all the information requested otherwise they would have automatically been disqualified from the process.

5. PROCUREMENT PROCESSES

- 5.1 The current contract expires on the 30th of September 2024. A procurement of a new contract needed to proceed in a timely enough manner to comply with our statutory obligations.
- 5.2 The services procured are subject to the Light Touch Regime. Under the Public Contracts Regulations (PCR 2015), there is no prescribed procedure for the procurement of such services, but an open procurement process was followed. Contracting Authorities have flexibility to use any process or procedure they choose as long as the procedure is in compliance with the EU treaty principles and the mandatory requirements set out in PCR 2015. Council Tender and Contract Regulations must of course be followed.
- 5.3 The 7 bids received for Lots 1 and 2, were evaluated for compliance in line with Stage 1 of the evaluation process outlined within the Instructions to Tender (ITT) document provided to all bidders.
- 5.4 Of the 7 bids, All the bids met the compliance requirements and, therefore, were taken to Stage 2 of the evaluation process, which looks at their method statements.
- 5.5 The evaluation was carried out by a panel of service area experts, from across the Council including, Adult Social Care & Health Operational Managers and Commissioners.

A table showing the total scores of all the bidders is shown below.

		Lot 1					Lot 2	
		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5	Bidder 6	Bidder 7
Provider								
Total Score (%)	100%	85%	81%	82%	78%	83%	79%	93%

- 5.6 Names of the bidders and a more detailed outcome of the evaluation and subsequent moderation can be found within Part B of this report.
- 5.7 The recommended bidder gained the highest overall total score on both quality and price.

5.8 The Premier Supplier Programme (PSP) was offered as part of this tender and was evaluated along with the pricing element of the tender. Details on the bidders who offered PSP is in part b of this report.

5.9 The Real Living Wage (RLW) was a pass/fail criteria of this tender therefore the preferred bidder will offer RLW as part of this contract.

6. ALTERNATIVE OPTIONS CONSIDERED

Options Considered, Risks and Recommended Option:

6.1 Alternative options that were considered and rejected were included in the procurement strategy report. Option 1 was recommended and approved from the Procurement Strategy report and deemed the most appropriate.

Options	Advantages	Disadvantages	Risks
Option 1 Award to the preferred bidders following the tender process	This would meet the Authority Tender and Contract Regulations and ensure the Authority is meeting its statutory requirements. The successful bidders will support an integrated model. Continue to support strong local partnerships that will be in place.	Challenge from providers who were not successful during the Tender application.	Failure to meet the outcomes of the contract and service specification Challenge from providers who were not successful during the Tender application
Option 2: Bring the Service Inhouse – Not Recommended. This option is not recommended because the Independent Advocacy Service as required by The Care Act 2014 regulations for independent advocacy states that providers of advocacy must be independent of the local authority so must be provided by an external provider.	N/A	These services cannot be insourced as they provide services that are explicitly commissioned to be independent from the Council and other statutory services.	N/A
Option 3: Decommission the Service – Not Recommended. Decommissioning the Service is not a viable option because there is an ongoing need for this service as the council has a statutory duty to provide an Independent Advocacy Service under the Care Act 2014, Care and Support (Independent Advocacy Support) Regulations 2014.	Not an option	The contract expired on 31/09/2024	If the contract were to end , the council would be in breach of its statutory obligations The contract expired on 31/09/2024
Option 4; Extend with current provider	Not a option, as contract cannot be extended any further.	Not an advantage	further extension is not permissible

6.2 The Tender Process was carried out with support from Corporate Procurement in line with the Council's Contract Procedure Rules and compliance with the Public Contracts Regulations 2015 requirements.

6.3 **Lots:** The tender was formed of two (2) Lots, thus allowing two providers to be awarded contracts (one provider per Lot). Through the tender process, we sought two providers with a specialism within Adult Social Care Advocacy, such as Independent Mental

Capacity Advocacy and Care Act and Mental Health Advocacy, including Independent Mental Health Advocacy.

- 6.4 The rationale for this approach is to enable us as a Council to contract to manage both successful providers separately and ensure we achieve a high-quality service and value for money. The previous hub and spoke model, whereby one main provider subcontracted out to a smaller provider, made this difficult to achieve.

7. CONSULTATION

- 7.1 Consultation was undertaken as part of the commissioning process before the procurement process, which was outlined in the procurement strategy report.

8. CONTRIBUTION TO COUNCIL PRIORITIES

- 8.1 This service meets the following essential spend criteria:
- Expenditure required to deliver the council's provision of statutory services at a minimum possible level.
 - Expenditure to better the situation
The service enables vulnerable adults to be supported to make decisions that affect their care and well-being in line with the principles within the Care Act ensuring that the Council fulfils its statutory requirements. This contract prevents situations from getting worse by ensuring access to statutory advocacy provisions.
- 8.2 This report and the recommendations contained within it support the following Mayoral/Council priorities:
- **Sound financial management and sustainability** – *ensuring services are value for money and maximising opportunities for joint investment*
 - **Good customer service and operational delivery** – *delivering services that are outcome focused and informed by the resident's voice on what they need and would like from services*
 - **Good governance** – *ensuring contractual compliance and that the market has been engaged on the future needs of services.*

9. IMPLICATIONS

FINANCIAL IMPLICATIONS

	Year	Medium-Term Financial Strategy – 7-year forecast		
	2024/25 £000	2025/26 £000	2026/27 £000	2027/28 £000
Revenue Budget Available				
Expenditure Income	£174 (from October 1 st until 31 st March 2025)	£348	£348	£348
Effect of decision from report				
Expenditure Income	£174	£348	£348	£348
Remaining Budget	0	0	0	0
Capital Budget available				
Expenditure Income				
Effect of decision from report				
Expenditure Income				
Remaining Budget				

- 9.1 The Advocacy contract is currently paid from Cost centre: C13112 – Care Act.
- 9.2 The service is funded via the Better Care Fund (BCF); this allocation is ring-fenced for this specific service in accordance with the agreed schemes of the Better Care Fund.
- 9.3 A reduction in spot purchases will be made through improved referral pathways and an improved quality assurance workbook which will be effectively monitored as part of contract management meeting which will provide assurance and oversight.
- 9.4 The recommended seven-year contract length will allow commissioning to work closely with our Transition Teams, relevant stakeholders and partners such as South London and Maudsley (SLaM).

- 9.5 Inflation may apply to this contract, therefore the total price of the contract may increase over its lifetime.
- 9.6 Costs of this contract will be met within existing approved resources.

See Part B of this report.

Comments approved by Head of Strategic Finance – Adult Social Care & Health on behalf of the Director of Finance. (Date 13/06/24)

10. LEGAL IMPLICATIONS

- 10.1 The Council has the power to enter into contracts with third parties pursuant to its functions as provided for under section 1 of the Local Government (Contracts) Act 1997. The Council also have the power to do anything that individuals generally may do pursuant to section 1 of the Localism Act 2011.
- 10.2 The Executive Mayor has the power to exercise executive functions pursuant to s9E of the Local Government Act 2000 and has the power to delegate those functions.
- 10.3 At present the delegations in the Council's Tenders and Contracts Regulations have been superseded by the Executive Mayor's Scheme of Delegation following the introduction of the Mayoral Model and the specific delegations in the annual procurement plan approved by the Executive Mayor in Cabinet.
- 10.4 The Executive Mayor has delegated authority to approve the award decision to the Corporate Director on 27th September 2023.
- 10.5 The report sets out how the requirements of the Public Contracts Regulations 2015 have been complied with in undertaking the procurement.
- 10.6 The report sets out the statutory requirements relevant to the service.

Comments approved by the Head of by Kiri Bailey, Head of Commercial and Property Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 24/06/24)

11. EQUALITIES IMPLICATIONS

- 11.1 The single point of access Advocacy Service enables improved access to Advocacy Services and will promote equality by helping individuals to self-advocate and speak up for themselves in a variety of settings.
- 11.2 An Equalities Impact Assessment (EIA) has been completed in advance, ensuring that no group, especially those of the (Protected Characteristics), is directly or indirectly discriminated against by the proposals in this report.
- 11.3 The Council has a statutory duty to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, therefore have due regard to:

- eliminate discrimination, harassment, victimization and any other conduct that is prohibited by or under this 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.
- 11.4 When a service is contracted out both the contractor and the public authority that commissioned the service have to give due regard to the three principles of the General Duty as set out above. Any supplier that is exercising public functions also has an obligation to fulfil the general duty.
- 11.5 The Contract Management Framework is required to work within the framework of the Equality Strategy 2020- 2024. The deliverables in the Equalities Strategy should be incorporated into the Contract Management Framework and policy documents as detailed below:
- 11.6 “Outline how the proposed contract(s) will comply with the Public Sector Equality Duty outlined in Section 4 of the EQIA; and meet the outcomes of the Council’s equality strategy, particularly:
- i. All Council contracts contribute towards delivering our equality objectives
 - ii. Council contractors are inclusive and supportive of vulnerable groups
 - iii. Ensure that every strategy, delivery plan, council contract and staff appraisal has an equality objective linked to it.
 - iv. That contractor be requested to adopt Croydon’s Equality and George Floyd Race Matters Pledges”
- 11.7 The Equalities Strategy including the Pledges named above, are provided to all bidders during the tendering stage of the procurement process. Social Value objectives also mirror the Council’s commitments to equality and diversity.
- 11.8 Risk mitigation is outlined within the Strategy report, approved by Cabinet in 27th of September 2023.

Comments approved by Ken Orlukwu, Senior Equalities Officer, on behalf of Helen Reeves, Head of Strategy & Policy on 16/05/2024

OTHER IMPLICATIONS

12. Procurement Implications

- 12.1 The Procurement process that was undertaken was compliant with both PCR 2015 and Croydon Council’s Tender and Contract Regulations.
- 12.2 The procurement process is detailed within section 5 of the report and did not deviate from the procurement strategy

Approved by: Natalie White on behalf of the Head of Strategic Procurement and Governance). (Date 17/05/2024

13. GDPR Implications

13.1 A DPIA is in progress. The Information Governance team have had sight of this and it will be completed once the contract has been awarded to the successful providers.

14. Risks

14.1 If this award does not take place, the council will be out of contract with the incumbent provider and there will be no alternative service available to work with people who require support to ensure their voices are heard around decisions that affect their lives. This would result in a large number of individuals being left without support Having undertaken a successful procurement exercise, we wish to award a contract. Alternative options would only be considered if the procurement exercise was not successful.

14.2 The following risks have been identified and will be actively managed within the new service:

Risk	Risk Description	Risk Rating	Risk Mitigation/Management
Procurement Challenge	Risk of procurement challenge from non-successful bidders	Low	Robust procurement process undertaken supported by category manager and procurement officer. Detailed feedback will be provided in the unsuccessful tender letter.
Risk to service delivery	There must be continuity in the delivery of this service.	Low	Possible need for short extension in case any delay in award occurs.
Increase in cost	Bidders proposing higher operating costs than current provision	High	Maximum budget for each part of the service has been included within tender documents
Challenge/poor performance from incumbent provider	The incumbent provider could start performing poorly with the view that the contract is ending.	Low	Robust contract management is in place with quarterly contract reviews to ensure providers are delivering the services required There are no TUPE implications
HR/TUPE	TUPE implications for the incumbent provider	Low	There are no TUPE implications as the existing providers were successful

15. APPENDICES

15.1 Appendix A – Part B report (Exempt)

15.2 Appendix B – Decision Record Form

16. BACKGROUND DOCUMENTS

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17 URGENCY

N/A

