

**AGENDA ITEM: 10**                      Pages 47 – 58

Meeting	Cabinet Resources Committee
Date	28 July 2011
<b>Subject</b>	<b>Barnet Centre for Independent Living – Commissioning User-Controlled Information, Advice and Advocacy for Disabled People</b>
Report of	Cabinet Member for Adults
Summary	This report seeks (i) authority to commission Barnet Centre for Independent Living to provide information, advice and advocacy services; and (ii) authority to enter into a section 75 NHS Act 2006 agreement with NHS Barnet

Officer Contributors	James Taylor, Deputy Head of Strategic Commissioning
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Current information, advice and advocacy services commissioned from voluntary organisations by Adult Social Care and Health
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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## **1. RECOMMENDATIONS**

- 1.1 That authority to given to commission Barnet Centre for Independent Living to provide information, advice and advocacy services for a maximum period of two years**
- 1.2 That the requirements of paragraph 6.4-5 of the Contract Procedure Rules be waived;**
- 1.3 That the Cabinet Member for Adults be authorised to approve the Council entering into a two-year Section 75 National Health Service Act 2006 pooled funding agreement with NHS Barnet (NHSB), with the council acting as lead commissioner, subject to the legal and financial terms of the agreement being approved by the Assistant Director – Legal and the Chief Finance Officer**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Resources Committee, 22 July 2008 (Decision item 11) - approved changes to voluntary sector commissioning arrangements.
- 2.2 Cabinet Resources Committee, 8 December 2009 (Decision item 7) - approved the strategic document 'Looking after Yourself – a prevention framework for Barnet' as the basis for the commissioning of preventative services by Adult Social Services.
- 2.3 Cabinet Resources Committee, 13 January 2011 (Decision item 11) - approved a waiver of paragraph 5.6.2 of the Contract Procedure Rules to allow the entry into interim funding agreements for prevention services commissioned by the Council's Adult Social Services subject to a maximum duration of two years.
- 2.4 Cabinet Resources Committee, 21 April 2011 (Decision item 7) - approved procurement of a contract for day opportunities services for adults with mental ill-health and a contract for respite and support services for carers of adults with disabilities, ill-health or frailty.
- 2.5 Delegated Powers Report No 1313, 4 April 2011 – authorisation of contract with the Barnet Centre for Independent Living to provide the Advantage Agent service

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Better services with less money – The proposed services will help to promote independence for adults with care and support needs in the Borough. They will focus support around the customer to achieve a better customer experience and better value for money through commissioning services differently and through service transformation.

The procurement will contribute to managing resources and assets effectively and sustainably across the public sector.

- 3.2 Sharing opportunities and sharing responsibilities – The proposed services together with other re-commissioned social care and prevention provision will support implementation of the Choice and Independence vision for Adult Social Care by developing a market place which is able to respond to people self-directing their support through a personal budget. The service model will allow for increasing use of personal budgets and social capital to reduce providers' dependency on Council funding for example through effective deployment of volunteering and by enabling service users to set up sustainable co-support groups.
- 3.3 New relationship with citizens –Barnet Centre for Independent Living is a User led Organisation able to take forward the new relationship through its role as a hub provider of a range of core support for disabled people, including information, advice and advocacy, that demonstrate user influence and delivers user configured services.
- 3.4 The establishment of a pooled budget under section 75 of the integrated element will ensure that there is integrated commissioning, a joined approach to the market and more effective management of provider costs thus achieving the *One Barnet* ethos and '*Better services with less money*', which is important at a time when the Council and Primary Care Trust are facing significant budgetary constraints.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 Commissioning Barnet Centre for Independent Living (BCIL) will enable Information, Advice and Advocacy services ("IAA") to be provided by a user-led organisation. The Council with CommUNITY Barnet and the voluntary sector have actively supported development of BCIL, leading to its constitution as a community interest company in Autumn 2010. BCIL has already been commissioned by the Council to provide peer support brokerage services with effect from March 2011 until December 2012 using Trailblazer funding awarded to Barnet by the Government. It is highly desirable that IAA and brokerage services are provided within a single integrated service in order to enable flexible use of resources to meet future needs.
- 4.2 Good quality IAA and brokerage delivered through a user-led organisation are a core part of specialist provision for people with disabilities, frailties or other long-term conditions, and a key element in maximising take-up of the Right to Control and use of personal budgets by people eligible to receive funding for social care and support. Ready access to timely IAA services also enables people with low and

medium-level needs to stay independent, preventing escalation of needs and dependencies

- 4.3 Commissioning the provision under a single arrangement with BCIL is recommended in order to mitigate risks arising from the budgetary reduction approved by Cabinet in February 2011. There are a number of contracts with a number of voluntary sector organisations which will expire on 31.3.2012. The proposed arrangement will result in a partnership between Barnet Council and the Centre for Independent Living to commission and or provide these services from that date. It would offer potential efficiencies of scale by reducing overhead costs and mitigating risks of duplication and/or gaps between services that would occur if the reduced budget were spread across several smaller contracts. It also offers efficiencies in contract management for the Council.
- 4.4. The Council has had long-standing relationships with many of the funded voluntary organisations and many are delivering services of considerable value to Barnet residents and has consulted with them during 2011 on how best to achieve the budget savings for the voluntary sector and on the Information, Advice, Advocacy and Brokerage Strategy. Commissioning future provision through BCIL would create the conditions for integrated working between specialist organisations and across the different customer groups for whom the services are intended. It is expected that BCIL will wish to put in place sub-contracts or other partnerships to take maximum advantage of the skills and experience of the existing provider sector and to minimise risks of discontinuity in service delivery in the transition between old and new contracts.
- 4.5 There is a risk that entering into a partnership contract to commission and or provide information, advice and advocacy services, directly, with BCIL could result in challenge(s) being brought against the council. The risk is assessed as being low in view of the specialist nature of the relevant services. The Council will publish a notice concerning the intention to commission user-controlled provision to be operated by BCIL and will review the risk assessment following publication.
- 4.6 At the same time, there are significant risks if the Council proceeds directly to competitive procurement before it has sufficiently tested the proposed user-controlled service model,. The two year term of the recommended contract would provide sufficient time for BCIL to pilot the services and for the Council to review its performance, refine or reshape the service specification and complete a competitive procurement to let a new contract on expiry of the contract with BCIL.
- 4.7 The risk that the recommended partnership with BCIL by way of a two year contract would not offer best value for money would be mitigated by the following intended actions:

- The Council's requirements for the services will be re-specified to define the objectives and deliverables to be achieved over the two year period of the partnership.
  - The contract would be outcomes focused with well-defined indicators of success and include clear and enforceable accountabilities for performance and provision for unconditional early termination.
  - The partnership would be for a maximum period of two years, with competitive procurement being undertaken in the second year.
  - A contingency plan will be in place to ensure that existing contracts are varied to reduce the level of funding to approved budget resources with effect from 1.4 2012 in the event of any delay in the proposed service implementation.
- 4.8 The Section 75 agreement to establish a pooled budget for voluntary sector prevention expenditure will set out a clear governance framework and monitoring arrangement overseen by the Health & Well-being Board. The Council will on behalf of the partnership be expected to provide monthly, quarterly and annual financial and performance reports to the Board

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The Equality Act 2010 came into force on 5 April 2011. Pursuant to section 149 of the Act, the council has a public sector obligation to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation.
- 5.2 The provision of user-led information, advice and advocacy services strengthens the ability of disabled people to control their lives as they become better informed and supported to make their voice heard. Improving access to information and inter-personal support will increase individuals' ability to exercise choice. Consequently, the commissioning is intended to have a very positive equalities impact. Initial equality impact assessment of the proposed pilot service model and implementation arrangements has been completed. The assessment at this stage indicates a positive effect overall and will be updated in the light of the outcomes achieved during the first year of operation.
- 5.3 Currently some client groups have specific information, advice and advocacy services, whilst others do not. Having one contract for a pan-disability service will ensure that there is fair access to support across all groups including carers, and that needs can be matched efficiently with resources. Risks for users of existing services as a result of potential future reallocation of resources will be managed through a transitions plan and specifying the reasonable adjustments in the

service model that are required to ensure that the needs of the most vulnerable are addressed.

- 5.4 The Council's Equalities policy will inform evaluation of providers' proposals. The contract for the new services will include explicit requirements fully covering the Council's duties under equalities legislation.
- 5.5 The ability for BCIL to sub-contract or to operate as lead member of a consortium has been built into the specification to facilitate response to specialist areas of demand which may relate to, for example, language or diagnosis which it is not possible to cover within the main contract.
- 5.6 The contract will require providers to have a high standard of equitable behaviours. This includes compliance with Equal Opportunities Legislation, operating an equal opportunities policy, observing Codes of Practice issued by the Commission for Equality and Human Rights, and giving appropriate consideration to each customer's race, nationality, cultural or ethnic background, marital status, age, gender, religion, sexual orientation and disabilities.

## **6. USE OF RESOURCES IMPLICATIONS (Financial, Procurement, Performance & Value for Money, Staffing, IT, Procurement, Sustainability)**

- 6.1 Prevention services currently provided by voluntary organisations are funded from specific community care funding and Formula Grant allocated to the Adult Social Care and Health base budget.
- 6.2 Proposals to reduce relevant budget provision in 2011/12 have been agreed, comprising in respect of voluntary sector prevention services, £350K in 2011/12 and £550K in 2012/13 and in respect of housing related support services; £492K in both 2011/12 and 2012/13, and £362K in 2013/14;.
- 6.3 The proposed maximum annual budget for re-commissioned information, advice and advocacy services for 2012/13 is £347,428. This amount includes £34,223 of currently allocated funds from NHS Barnet resources which will form part of the proposed section 75 agreement referred to in paragraph 6.6 below.
- 6.4 The Council's Contract Procedure Rules provide that contracts of the values indicated in paragraph 6.3 above should be awarded following a tendering process or other approved route. In considering the recommendations to waive this requirement the Committee must be satisfied that the waiver would fall within one or more of the four criteria specified in Paragraph 5.8 of the Contract Procedure Rules.

- 6.4.1 the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or
  - 6.4.2 the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
  - 6.4.3 the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or
  - 6.4.4 there are other circumstances which are genuinely exceptional
- 6.5 The services to be provided under the recommended contracts represent specialist models of provision that have not yet been fully tested. The Council is therefore not yet in a position to proceed to competitive procurement but it must nevertheless procure new contracts in order to manage the impact of approved budgetary reductions and to ensure continuity of provision for disabled people when existing contracts expire on 31.3.2012. These circumstances are consistent with the criteria at 6.4.1 and 6.4.4.
- 6.6 The NHS Barnet Board has approved the setting up of a s75 pooled fund agreement between NHS Barnet and the council. The Recommendation, set out at 1.2, above, seeks delegation of authority to the Cabinet Member for Adults, to authorise entry into a section 75 pooled fund agreement with NHS Barnet, the council acting as lead commissioner for all NHS voluntary sector spend amounting to £840,921

## **7. LEGAL ISSUES**

- 7.1 The services to be commissioned will fall under Annexe B of Schedule 3 to The Public Contracts Regulations 2006 (as amended). This means that the procurement will not be subject to the full EU tendering rules.
- 7.2 The principles of fairness, non-discrimination and transparency will apply to the provision. Meeting these principles requires, as a minimum, that the council places an advertisement on its website, advertising its intention to award the contracts and giving interested parties the opportunity to compete for the contracts.
- 7.3 Section 75 of the NHS Act 2006 empowers health and social care organisations to make contributions to a common fund to be spent on agreed projects or used for delivery of specific or delegated functions. Regulations and Government guidance indicate how section 75 arrangements should be set up. The, proposed, agreement between the council and NHB Barnet will be based on a nationally recognised template.

## **8. CONSTITUTIONAL POWERS**

- 8.1 The Council's Constitution, Part 3, Responsibility for Functions, paragraph 3.6 sets out the functions of the Cabinet Resources Committee.
- 8.2 Procurements are governed by the Contract Procedure Rules as set out in the Constitution

## **9. BACKGROUND INFORMATION**

### Information, advice and advocacy services

- 9.1 The Council's Information, Advice, Advocacy and Brokerage strategy has been revised following wide consultation which ended in May 2011. The new strategy takes account of the feedback received, that people are looking for information, advice, advocacy and brokerage that are geared to the special needs of disabled people and carers rather than to those of Barnet's general population to be served by the Council's proposed Customer Services Organisation.
- 9.2 A specialist information, advice, advocacy and brokerage service for disabled people and carers will enable;
- Choice and control - individual service users and carers are empowered to make informed decisions about their lives;
  - Prevention - individuals are supported to plan for their lives and anticipate their health and social care needs;
  - Social capital - individuals understand and make best use of the resources available to them;
  - Market management - information about needs and demand stimulates a competitive consumer-led market.
- 9.3 Existing specialist provision commissioned from the voluntary sector through Adult Social Care and Health and listed at Appendix 1 will need to be re-commissioned during 2011 within the reduced resources approved as part of the Council's medium-term financial strategy. The service model will reflect the priorities of the revised strategy including the following key principles:
- Targeting support to those who need it most and promoting self-service for those able to use mainstream services.
  - Fully inclusive provision suitable for people with all forms of disability, frailty and illness, and their carers.
  - Developing volunteer contributions and other social capital to add value to public funding.
  - Integrated provision to allow flexible resource re-allocation in response to client demand and understanding of need.



- Overcoming the barriers disabled people face in accessing services and support.
  - Improving value for money by joining up services to reduce back office costs and eliminate duplication.
- 9.4 For the Council the creation of the Centre for Independent Living embodies a commitment to a new relationship with citizens; a user led organisation responsible for the design and delivery of social care services, providing social value in line with the 'Big Society' agenda. The offer will include signposting and support for individuals both eligible and ineligible for social services, with special regard to those who are self-directing and self-funding their support. It will close the gap for those ineligible for or less willing to engage with statutory services; it will support disabled people to lead more independent lives and it will provide the links with statutory and safeguarding services where required.
- 9.5 In 2010 the Barnet Centre for Independent Living (BCIL) organisation, facilitated by CommUNITYBarnet was constituted as a Community Interest Company that is 100% user led. BCIL has recently gained its first contract to deliver a peer support service as part of the Right to Control trailblazer, a One Barnet project.
- 9.6 Establishing user led organisations to lead on information, advice and support planning, continues to be a key national Government policy of the Office for Disability Issues who in May 2011 launched a national programme to support the development of strong and sustainable user led organisations. The work that Barnet Council has been doing in developing the BCIL has been identified as an example of good practice by the ODI.
- 9.7 It is recommended that BCIL be commissioned to operate the pilot service for a maximum term of two years prior to market testing and competitive procurement of a new contract to commence at the end of the period.
- 9.8 The proposed services would be subject to a detailed specification and performance framework setting out the Council's requirements. Performance would be appraised against the following measures of success:
- The services are chosen by a majority of people looking for support.
  - The services enable achievement of Barnet's performance targets on the number of people taking up individual budgets and self-directing their support.
  - The services achieve high satisfaction ratings on the effectiveness of their support to both personal budget holders and self-funders.
  - The services are able to evidence that they have prevented needs from escalating and reduced requirements for statutory interventions.

9.9 The following key milestones are applicable to implementation of the recommended provision

End Aug 2011	Provision of BCIL's outline proposals.
End Sept 2011	Provision of BCIL's method statements and implementation plans.
Oct - Nov 2011	Contract award
Dec - Jan 2012	Service initiation, subject to contract.
Jan - Mar 2013	Review of performance and requirements for amendment of service models.
Apr - Jun 2013	Market testing and finalisation of steady state service specifications.
Jul - Dec 2013	Invitation of competitive tenders and selection of new contractor/s.
Jan - Mar 2014	Service mobilisation and transition planning.
April 2014	Commencement of new contract.

#### Establishment of a Pooled Budget

9.10 The recommendation at Paragraph 1.1 seeks to realise the benefits of an integrated commissioning approach by pooling relevant resources available for investment by the Primary Care Trust and the Council. At present both organisations separately fund a number of voluntary organisations to provide prevention services in order to reduce ill-health and social care dependencies. Under the proposed s75 agreement, the council would lead future commissioning. All pooled budget arrangements would be subject to oversight by Barnet's Health & Well-being Board, the lead partnership body for health and social care matters in the borough as identified in the Sustainable Community Strategy and other One Barnet policies and programmes

## **10. LIST OF BACKGROUND PAPERS**

10.1 None.

Legal: SS  
CFO: MC/JH

**Appendix 1 Current specialist information, advice and advocacy services commissioned from voluntary organisations by Adult Social Care and Health**

<b>Provider</b>	<b>Scheme Name</b>	<b>LBB 2011/12 Value</b>	<b>PCT 2011/12 Value</b>
Advocacy in Barnet	Advocacy for Older People	£25,823	
Advocacy in Barnet	Advocacy Services - Younger Adults	£32,107	£34,223
Advocacy in Barnet	Advocacy Worker - Learning Disabilities	£34,423	
Barnet People's Choice	Barnet Peoples Choice (advocacy and parliament)	£54,854	
Barnet Voice	Barnet Voice for Mental Health	£69,617	
Disability Action in the Borough of Barnet	Core Funding - Information, Advice and Advocacy	£89,296	
Disability Action in the Borough of Barnet	Home visiting services	£9,334	
Barnet Citizens Advice Bureau	Welfare Benefits Advice Service	£41,760	
Mind in Barnet	Day Services, Information and Advocacy	£49,705	

