
Meeting	Cabinet Resources Committee
Date	25 February 2014
Subject	Contract Award for Independent Mental Capacity Advocacy, the Deprivation of Liberties Safeguards Relevant Person's Paid Representative and Independent Mental Health Advocacy Services.
Report of	Cabinet Member for Adults
Summary of Report	The report recommends the award of a three borough Contract to Voiceability for the Independent Mental Capacity Advocacy, the Deprivation of Liberty Safeguards Relevant Person's Paid Representative and Independent Mental Health Advocacy Services following a Competitive Tender conducted jointly with the London Borough of Enfield and the London Borough of Haringey. Successful award is dependent on the award of the Contract by all three Boroughs.
Officer Contributors	Andrew Shirras, Senior Category Manager
Status (public or exempt)	Public (with separate exempt report)
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	None
Function of	Executive
Enclosures	None
Contact for Further Information:	Andrew Shirras, Category Manager, Adults and Communities.

1. RECOMMENDATION

- 1.1 To award the three-borough Contract for the Independent Mental Capacity Advocacy (IMCA), the Deprivation of Liberties Safeguards Relevant Person's Paid Representative (DOLS) and the Independent Mental Health Advocacy Services (IMHA). The successful award is dependent on the award of the Contract by all three Boroughs.
- 1.2 To award the Contract to the winning bidder, Voiceability, for a period of three years, with the option of extending for a further year plus another further year. Contract extension would be subject to satisfactory performance, availability of resources and the continued demand for the services.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 The Cabinet Member for Adults signed a Delegated Powers Report awarding the current contract for the IMCA and DOLS on 22 September 2010.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council is committed to supporting vulnerable adults and the delivery of statutory mental health services that are of a high standard is essential to achieving this. The Council's corporate priorities include a commitment to a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health.

4. RISK MANAGEMENT ISSUES

- 4.1 The Council faces two identified risks in the commissioning of this service. The first is the implementation of the new contract. This has been mitigated by requiring each tenderer to submit proposals for contract mobilisation.
- 4.2 The second risk identified is the risk of jointly managing a contract across three boroughs. This will be mitigated by a Partnership Agreement and joint contract monitoring. The three boroughs have implemented this approach for the past three years and it has worked effectively.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Equality Act 2010 places a duty on public authorities 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. The Equality duty also places a duty on the council to meet the needs of disabled persons and take account of their disabilities.
- 5.2 Contracted care providers are required to have a high standard of equitable behaviours. This includes compliance with Equalities 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.
- 5.3 The services being procured will operate within this framework which has particular application to mental health services, where adults are vulnerable and can be subject to discrimination. The Specification developed for this contract places clear responsibilities on the service provider to deliver services that comply with statutory duties and the Council's policies. Performance indicators will monitor compliance with equality issues.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 For these three statutory services a single service provider has been jointly sourced alongside the London Borough of Enfield and the London Borough of Haringey. For these particular services joint commissioning delivers better value because it allows the successful bidder to match the available resources to shifts in demand across the three boroughs. The joint approach also takes account of the fact that Barnet residents can be residents of NHS hospitals or other residential settings in Enfield or Haringey. This approach has been taken for some of these services (IMCA and DOLS) since 2010.

7. LEGAL ISSUES

- 7.1 Local authorities have statutory responsibilities to make arrangements for the provision of the IMCA, the DOLS and the IMHA service in their respective areas.
- 7.2 IMCA is a role created by the Mental Capacity Act 2005. A local authority or NHS body have a separate legal duty to involve an IMCA when a vulnerable person who lacks mental capacity needs to make a decision about social care or medical treatment or, other related matters, such as an accommodation move. The IMCA is advocacy that supports vulnerable people to reach decisions, represent their views and act in their interests. Local authorities have a statutory responsibility to ensure that IMCA services are provided in their area.
- 7.3 The DOLS was also created by the Mental Capacity Act 2005, providing a set of safeguards for anyone who has restricted freedom, such as in a care home or a hospital. The Paid Representative is appointed to act on behalf of a person and to represent their interests.
- 7.4 The IMHA is a further form of statutory advocacy which was introduced in 2009, under amendments to the Mental Health Act 1983. A person detained under the Mental Health Act 1983 in a secure setting is entitled to access support from the IMHA. People discharged from hospital may also be supported by the IMHA.
- 7.5 For each of these statutory services, the commissioned provider delivering the service on behalf of Barnet Council must be specialised and trained to work within the framework of the Act.
- 7.6 These services are Part B Services under the European Union Contract Regulations 2006. As such there was no cross border interest. However, as good practice the three boroughs decided to tender, with Enfield Council taking the lead. This went ahead through the Enfield Contract Forward Plan. To facilitate this process, the existing Contract for IMCA and DOLS was extended from October 2013 to March 2014, when the tender concludes. This ensured the required continuity in the provision of these statutory services.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The Council's Contract Procedure Rules form Chapter 25 of the Council's Constitution. The Contract Procedure, section 14 and Appendix 1 – Table A set thresholds for the award of Contracts by value, and the rules for extensions and variations of contracts. This Contract is valued at £ 548, 653 over the first three years of the Contract. The Barnet Council contribution will be £201,791 (based on the relative population of each borough) over the three years of the initial Contract award. Because of the potential to award an extended contract of up to five years, it has

been decided to seek contract award, and possible extension of up to two years, at the Cabinet Resources Committee.

9. BACKGROUND INFORMATION

- 9.1 The Council has jointly commissioned the IMCA service and the DOLS service with the London Borough of Enfield and the London Borough of Haringey since 2010. This joint commissioning has enabled Barnet Council to take advantage of the economies of scale that come with larger contracts. The IMHA service had previously been commissioned separately by the three boroughs following its creation in statute in 2009.
- 9.2 The three boroughs have conducted a joint tender exercise over the past five months. This report describes the joint procurement process and makes a recommendation for awarding the joint contract to the winning bidder.

10. THE TENDER PROCESS

- 10.1 The procurement exercise was led by the London Borough of Enfield and carried out in accordance with Enfield's Contract Procedure Rules, with due regard for the procurement processes of the London Borough of Barnet and the London Borough of Haringey. The sharing of roles has reduced the costs to Barnet Council that would normally arise from a tender process.
- 10.2 A two-stage, restricted tender procedure was followed. This involved a Pre-Qualification stage and then the Tender stage, using an e-tendering process. The three boroughs jointly developed the service specification and contract documentation to ensure that the requirements of each borough are taken into account.
- 10.3 In September 2013, advertisements were published electronically in the procurement portals called "CompeteFor", the "Delta portal" and the "London tenders portal". These adverts invited interested providers to complete an online Pre-Qualification Questionnaire posted on the London tenders portal. (www.londontenders.org).
- 10.4 A bidders' day was held to answer questions from potential suppliers. Subsequently six organisations, plus one potential sub-contractor, completed the online Pre-Qualification Questionnaire (PQQ). Key evaluation criteria were set out in the PQQ and applicants were assessed on the basis of their organisational capacity, fitness for purpose and financial standing. Staff from Barnet Council jointly evaluated the submissions with the two other boroughs. Following the completion of the evaluation of the PQQs, five organisations were invited to submit bids.
- 10.5 Following the publication of the Invitation to Tender (ITT), four of the five organisations submitted bids. The key ITT evaluation criteria were designed to ensure that bidders could meet the requirements of delivering these statutory services for vulnerable people, deliver quality services and deliver value for money. Pursuant of the Public Services (Social Value) Act 2012, tenderers were also evaluated on their ability to provide work placements for social care students.
- 10.6 Tenderers were required to answer method statement questions designed to satisfy evaluating officers that the tenderers have demonstrated a clear understanding of the service specification and they have the ability to deliver services across three boroughs. The bids were assessed by using the Most Economically Advantageous method. This gave a potential of 1050 points that could be awarded to each tenderer, broken down as follows:
- Quality (400 points);
 - Price (600 points); and,
 - Interview by service users (50 points).

10.7 The technical questions/method statements of the ITT focused on the following quality aspects:

- Proposed delivery models, including plans for providing safe and quality services;
- Plan for smooth transition, risk management and risk mitigation;
- Managerial and operational structure of the service;
- Plan for workforce recruitment, development and retention;
- Plan to meet the needs of people with complex needs e.g. severe mental health, learning disabilities, autism, physical impairment, people with a variety of communication needs and older adults as well as their families and carers;
- Plan for ensuring accessibility of services for people (residents and professionals alike);
- Plan to tackle key challenges in the face of the increasing nature of activities of the services;
- Plan and methods in fostering key local, regional and national partnerships;
- Plan for performance monitoring, service user involvement and continuous improvement;
- Plan for managing complaints, comments, suggestions and service improvement; and,
- Plan for promoting sustainability and ensuring social benefit to the relevant boroughs through delivering growth and social value by offering work placements to local youth, employing apprentices, involving volunteers and protecting the environment.

10.8 The tenders were evaluated by staff representing the three boroughs including a commissioner and two operational managers working in Mental Capacity and DoLS operational managers. Two service users' representatives, one from Enfield and one from Barnet participated in the evaluation of the tender by attending the tender clarification meeting, listening to presentations and interviewing tenderers.

10.9 Following desk evaluations, the tenderers were required to attend a 45 minute tender clarification meeting where they presented summary of their delivery models and to answer any questions posed by the evaluation panel and service users on their presentation or bid submission. The bidders were also interviewed by service users' representatives on how they will best meet the needs of service users from the three boroughs.

10.10 An anonymised summary of the results of the evaluation scores are shown in the table provided below. Detailed working papers relating to the tender are held by each of the three boroughs. In Barnet this is the Category Management Team in the Adults and Communities Delivery Unit.

Table 1: Tender scores and price table:

Tenderers	Quality Scores Out of 400	Price/Cost Scores Out of 600	Service Users Scores Out of 50	Total Scores Out of 1050	Tender Price for 3 years
VoiceAbility Advocacy	250	600	25	875	£548,653.00
Company A	263	560	35	858	£588,159.00
Company B	293	515	35	843	£639,805.00
Company C	313	504	25	842	£653,741.33

10.11 The evaluating officers are making the recommendation because they are satisfied that the tenderers have been through a thorough selection process and the bid from the high-ranking tenderer represents the most economically advantageous tender (MEAT) and provides best value for the three Councils.

10.12 The Pre-Qualification of bidders addressed quality assurance, equalities, health and safety and professional experience of these statutory services. Bidders' tenders set out their detailed proposals for delivering the service. It is acknowledged that the recommended service provider achieved the lowest quality score. However, the tender evaluation team agreed that the provider demonstrated that they could achieve the required quality standards. The score of 250/400 represents 62.5%. Quality of service will be continually monitored by each Borough in order to ensure satisfactory performance.

11. LIST OF BACKGROUND PAPERS

11.1 None.

Cleared by Finance (Officer's initials)	NS
Cleared by Legal (Officer's initials)	SD