



Adults and Safeguarding Committee

6 March 2017

Title	Extension of and variation of IMCA and IMHA contract
Report of	Commissioning Director, Adults and Health
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	None
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Summary

This report seeks approval to extend an existing contract with the Barnet, Enfield & Haringey Consortium for Independent Mental Capacity Advisors (IMCA) & Independent Mental Health Advisors (IMHA) for one year (from 1st April 2017 – 31st March 2018), and to vary the value by an additional £28,980. The report presents the reasons for extending the contract and requesting a variation in contract value.

The contract is in place to deliver statutory Independent Mental Health Advocacy (IMHA) and Independent Mental Capacity Advocate (IMCA) services. The current tripartite contract for the service (delivered by Voiceability) is led by the London Borough of (LB) Enfield on behalf of LB Enfield, LB Barnet and LB Haringey.

The demand for the service has increased year on year following the contract award in February 2014, with additional funding being authorised for the financial years 2015/16 and 2016/17 on 24th March 2015 by the Policy and Resources Committee.

The recommendation to extend the contract and authorise a contract variation for additional funding is being made ahead of the original end date of the contract of 31st March 2017, and is being made in order to meet the Council's statutory obligation to provide Independent Mental Capacity advocacy services to Barnet residents and ensure sufficient funding to meet the continued additional demand.

Recommendations

- 1. That the Committee approves the extension of the contract with Barnet, Enfield & Haringey Consortium for Independent Mental Capacity Advocacy (IMCA) & Independent Mental Health Advocacy (IMHA), provided by Voiceability, from 1st April 2017 – 31st March 2018.**
- 2. That the Committee authorises a variation to the contract with Barnet, Enfield & Haringey Consortium for Independent Mental Capacity Advocacy (IMCA) & Independent Mental Health Advocacy (IMHA) for an additional £28,980, therefore making the total contract value £96,243.03 for the extended contract year of 1st April 2017 – 31st March 2018.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The recommendation to extend the contract is to ensure that there is adequate provision of the statutory service. Under the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS), the Council has a statutory obligation to provide Independent Mental Capacity advocacy services to Barnet residents.
- 1.2 In March 2014, the Supreme Court delivered a judgement which effectively widened the definition of DoLS. The number of people who are now subject to the Deprivation of Liberty Safeguards has increased substantially.
- 1.3 If an individual is deprived of their liberty under the Mental Capacity Act 2005 (MCA) then they must have a Relevant Persons Representative (RPR), an independent advocate who is appointed to protect the individual's interests. This is usually a family member or friend, but when an individual does not have a suitable family member or friend, they are entitled to an independent advocate.
- 1.4 When the IMHA/IMCA contract was commissioned, the baseline given to providers was 9 RPRs per annum, based on activity prior to the Supreme Court judgement. This has increased significantly following the 2014 judgement, with a projected number of RPRs for 2016/17 of 79. The table below provides figures over the lifetime of the contract.

Service	Baseline	2014/15	2015/16	2016/17 (projection based on Q1-3)
RPR*	9	67	64	79

2. REASONS FOR RECOMMENDATIONS

- 2.1 At its meeting on 25th February 2014, the Cabinet Resources Committee (CRC) awarded a contract to Voiceability for a period of three years, with the option to extend for one year, plus another further year. The proposed extension of this contract is therefore permitted under the original terms of the contract, and is compliant with the Council's Contract Procedure Rules (see 5.4.2).
- 2.2 The Barnet contribution to the contract was stated as £201,791, with the overall value being £548,653. At its meeting on 24th March 2015, the Policy and Resources Committee authorised a variation to the contract up to the value of £40,000 per annum from 1st April 2015 – 31st March 2017.
- 2.3 The extension and variation agreement for 2017/18 in the contract will be £246,500 across the three boroughs. The proposed amount paid by Barnet will be £96,243.03. This is an additional amount of £28,980 per annum above the original contract agreement.
- 2.4 In order to commit this funding, a contract variation is needed in addition to a contract extension. Contract variations are permitted if they are compliant with the Council's Contract Procedure Rules (see 5.4.2).
- 2.5 The Barnet contribution to the initial contract value was £67,263. This increased to £85,565.71 in 2015/16 and £92,568.24 in 2016/17. The report that the Policy and Resources Committee considered granted additional funding was for 2015/16 and 2016/17. Additional funding is now required for 2017/18.
- 2.6 On December 1st 2016, the Policy and Resources Committee approved the Procurement Forward Plan. The request to undertake a procurement activity in relation to this contract was stated in the procurement forward plan. This report is requesting an extension of the contract as well as a contract variation. The Procurement Forward Plan will be updated following the decision.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The three boroughs explored options to re-commission the service following the end of the initial 3 year term of the contract with Voiceability. The outcome of this research was that there was no evidence that re-commissioning the service at this stage was likely to deliver either improved quality or reduced costs.
- 3.2 The three boroughs also explored the option to extend the contract based on the original terms. This option is not recommended due to the significant increase in demand for the service and the statutory responsibilities local authorities have as part of the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS).

4. POST DECISION IMPLEMENTATION

- 4.1 A copy of this report will be provided to CSG Procurement and stored in the Council's Contract Repository.
- 4.2 The Adults and Communities Delivery Unit will continue to monitor the contract alongside the LB Enfield, who is the lead commissioner. This will involve working in partnership with Voiceability to ensure an effective and efficient process of prioritisation is in place.
- 4.3 The Commissioning Director, Adults and Health, will progress plans to extend and vary the contract if the Committee approves the recommendations.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1. The contract supports the Corporate Plan 2015-2020, which is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:

- Of opportunity, where people can further their quality of life
- Where people are helped to help themselves, recognising that prevention is better than cure
- Where responsibility is shared, fairly, and
- Where services are delivered efficiently to get value for money for the taxpayer

5.2. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1. The contract is funded through both NHS Barnet Clinical Commissioning Group (CCG) and Adults and Communities revenue budgets. All the variation funding is from the Adults and Communities revenue budget. The total value of the contract is £67,263.03, made up of the Council contribution of £13,237.03 and the CCG contribution of £54,026. The table below summarises the proposed spend for 2017/18;

CCG Contribution (contractual value)	LBB Contribution (contractual value)	LBB contribution (variation)	Total annual contract value
£54,026.00	£13,237.03	£28,980	£96,243.03

- 5.2.2. The Council agreed to fund the cost of varying the contract with Barnet, Enfield and Haringey Consortium for Independent Mental Capacity Advocacy (IMCA) and Independent Mental Health Advocacy (IMHA) at approx.

£40,000pa for the 2 years from 1 April 2015- 31 March 2017. The cost of this variation was met from existing Adults and Communities revenue budgets. The actual variation agreed with the provider (Voiceability) was £18,302 in 2015/16 and £25,305 in 2016/17.

Contractual Period	Contract value (original)	Variation	Total annual contract value
14/15	£67,263.03	-	£67,263.03
15/16	£67,263.03	£18,302	£85,565.03
16/17	£67,263.03	£25,305	£92,568.03
17/18 (proposed)	£67,263.03	£28,980	£96,243.03

5.2.3. The value of the 1 year extension is £28,980. The extension would commence on 1st April 2017 and end on 31st March 2018. The cost of the extension with the variation is £96,243.03.

5.2.4. The value of the extension is based on 126 hours per week for IMCA/RPR services (with a 10% stretch target allowing delivery up to 139 hours per week). The cost of the extension will be met from the existing Adults and Communities budget.

5.3. Social Value

5.3.1. Not applicable.

5.4. Legal and Constitutional References

5.4.1. Barnet Council has legal duties as part of Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS). These safeguards exist to protect people in residential and nursing homes, hospitals and other settings such as supported living schemes. Where a deprivation is identified, the care or health provider must apply to the Local Authority for authorisation. Adult Social Care administers these duties which include tasks undertaken by professionally qualified staff as well as administrative tasks.

5.4.2. Annex A of the Council's Contract Procedure Rules (outlined in the Council's Constitution) states that any extension and/or variation of a contract (which is the total value of the original contract value plus any additional value through means of an extension or variation) over £164,176 must be approved by the relevant thematic committee.

5.4.3. Contracts can be extended and/or varied if they meet the requirements of the Contract Procedure Rules laid out at 15.5. This contract meets those requirements, which are as follows:

- the initial Contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
- the value of the extension or variation added to the value of the original Contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A;
- the extension or variation has an approved Budget allocation;
- the extension or variation is in accordance with the terms and conditions of the existing Contract;
- if the initial Contract was subject to an EU regulated tender procedure, that the extension option was declared within the OJEU contract notice and the original Acceptance report (Delegated Powers Report/relevant Committee Report); and
- the Contract has not been extended before.

5.4.4. Annex A of the Responsibility for Functions, as outlined in the Council's Committee, states that the Adults & Safeguarding Committee has responsibility to accept variations and extensions within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules.

5.5. Risk Management

5.5.1. Barnet Council must undertake this work, as the risks of not doing so could result in legal costs and penalties for an individual case should this work not be delivered in accordance with the law.

5.5.2. The value of the extension is based on 126 hours per week for IMCA/RPR services (with a 10% stretch target allowing delivery up to 139 hours per week). If demand for the service is higher than that which can be met within these hours, the Adults and Communities Delivery Unit will first try to manage this through effective prioritisation. If this is not achievable, then the contract permits the funding of additional services at a spot rate of £33.50 per hour. This would be managed through quarterly monitoring meetings.

5.6. Equalities and Diversity

5.7.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups;
- foster good relations between people from different groups.

5.8 Consultation and Engagement

5.8.1 Not applicable.

6 BACKGROUND PAPERS

6.1 Cabinet Resources Committee, 25th February 2014: Contract Award for Independent Mental Capacity Advocacy, the Deprivation of Liberties Safeguards Relevant Person's Paid Representative and Independent Mental Health Advocacy Services:

<http://barnet.moderngov.co.uk/documents/s13282/CRC%20Report%20IMCA%20DOLS%20IM>

6.2. Policy and Resources Committee, 24th March 2015: Variation to the Contract to award additional funding up to £40,000 per annum for the financial years 2015/16 and 2016/17:

<https://barnet.moderngov.co.uk/documents/s22211/Authorisation%20for%20Waiver%20of%20Best%20Interest%20Assessor%20and%20Mental%20Health%20Assessor%20Service.pdf>

6.3. Policy and Resources Committee, 1st December 2016: Procurement Forward Plan 2017-18:

<https://barnet.moderngov.co.uk/documents/s36302/Appendix%201%20-%20Annual%20Procurement%20Forward%20Plan%202017-18.pdf>