

	<b>CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</b>
<b>Title</b>	<b>Contract Award for Independent Mental Capacity Advocacy (IMCA)/ Deprivation of Liberty Safeguards Relevant Person's (paid) Representative (DOLS) and Independent Mental Health Advocacy (IMHA)</b>
<b>Report of</b>	Strategic Director - Adults, Communities & Health
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	N/A
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## Summary

Following the conclusion of an open tender procurement exercise led by the London Borough of Haringey, on behalf of the London Boroughs of Barnet, Haringey and Enfield (The Councils), this report recommends the award of contracts to the following organisations for the provision of advocacy services:

- **POhWER** - for the provision of Independent Mental Health Advocacy (IMHA) Services [LOT 1].
- **VoiceAbility** - for the provision of Independent Mental Capacity Advocacy (IMCA) services and Deprivation of Liberty Safeguards Relevant Person's Paid Representative (DoLS RPR) services [LOT 2].

## Decisions

To award a new tri-borough contract to POhWER, for the provision of Independent Mental Health Advocacy (IMHA) services [LOT 1]; and to VoiceAbility, for the provision of Independent Mental Capacity Advocacy (IMCA) and Deprivation of Liberties Safeguards Relevant Person's Paid Representative (DOLS RPR) services [LOT 2].

Successful award of this Contract is contingent upon a signed Partnership Agreement being with the London Boroughs of Barnet, Enfield and Haringey, and subject to approval by the London Borough of Haringey (Lead Authority).

### 1. WHY THIS REPORT IS NEEDED

- 1.1 The Policy and Resources Committee agreed the Annual Procurement Forward Plan (APFP) 2017-18 on 1 December 2016. This authorised the procurement of Independent Mental Health Advocacy (IMHA) and Independent Mental Capacity Advocacy (IMCA)/Deprivation of Liberty Safeguards Relevant Person's (Paid) Representative (DoLS RPR).
- 1.2 This Delegated Powers Report is required to authorise the contract award for the services to the second ranked tenderers, subsequent to the withdrawal of the first ranked tenderer from the initial contract award.

### 2. REASONS FOR RECOMMENDATIONS

- 2.1 To fulfil the statutory obligation of the London Boroughs of Barnet, Enfield and Haringey to commission high quality Independent Mental Health Advocacy (IMHA), Independent Mental Capacity Advocacy (IMCA) and Deprivation of Liberty Relevant Person's Representative (DoLS RPR) services.
- 2.2 These statutory duties are described in the Mental Capacity Act 2005 and section 43 of the Health and Social Care Act 2012, and are in accordance with section 130A of the Mental Health Act 2007 (as amended).

- 2.3 The aforementioned services were divided into lots and put out to tender via the Delta E-Sourcing portal on 3 November 2017.

<b>LOT 1</b>	Independent Mental Health Advocacy (IMHA)
<b>LOT 2</b>	Independent Mental Capacity Advocacy (IMCA)/ Deprivation of Liberty Safeguards Relevant Person's (PAID) Representative (DOLS) and Care Act Advocacy

- 2.4 As the incoming Lead Authority, the London Borough of Haringey led on the procurement process with input as appropriate from the London Borough of Barnet and the London Borough of Enfield.
- 2.5 An evaluation panel comprising of representatives from all three boroughs offered both expert operational and strategic insight for each lot; a moderation meeting was convened on 18<sup>th</sup> December 2017 to agree consensus scores and request further clarification from Tenderers as required.
- 2.6 The tender process involved a two-stage evaluation of Capability, Quality and Cost as follows:

Stage 1

Capability Assessment via selection questionnaire to assess the suitability of Tenderers with respect to their technical knowledge, capability/capacity, organisational and financial standing as relevant to the requirements.

Stage 2

Quality (40% of the total) and price (60% of the total) evaluation. The pass mark was 60% for both quality and price. Quality was evaluated based on the bidders' submitted method statements. Each response was scored out of 5, with 0 being the lowest and 5 being the highest score. A consensus score awarded with reference to the Method Statement questions and any supplementary clarification provided. The score for the total contract price was created by dividing each tender price by the lowest priced tender. This ratio was multiplied by the price weighting of 60% (600 points), to give a price score for each Tenderer. Tenders were required to score a minimum of 60% of the score available for quality.

- 2.7 Based on the combination of scores for both price and quality, Bidder 1 received the highest score, and was subsequently awarded the contract.

**Summary of evaluation scores:**

<b>LOT 1 – IMHA</b>				
<b>Tenderers</b>	<b>Quality</b>	<b>Price scores</b>	<b>Total Scores</b>	<b>Ranking</b>
<b>Bidder 1</b>	<b>272</b>	<b>600</b>	<b>872</b>	<b>1</b>
<b>Bidder 2</b>	<b>332</b>	<b>417</b>	<b>749</b>	<b>2</b>
<b>Bidder 3</b>	<b>296</b>	<b>400</b>	<b>696</b>	<b>3</b>
<b>Bidder 4</b>	<b>336</b>	<b>356</b>	<b>692</b>	<b>4</b>

<b>LOT 2 – IMCA/ DOLS RPR</b>				
<b>Tenderers</b>	<b>Quality</b>	<b>Price scores</b>	<b>Total Scores</b>	<b>Ranking</b>
<b>Bidder 1</b>	<b>280</b>	<b>600</b>	<b>880</b>	<b>1</b>
<b>Bidder 2</b>	<b>328</b>	<b>415</b>	<b>743</b>	<b>3</b>
<b>Bidder 3</b>	<b>268</b>	<b>391</b>	<b>659</b>	<b>4</b>
<b>Bidder 4</b>	<b>360</b>	<b>461</b>	<b>821</b>	<b>2</b>

- 2.8 The Councils performed their due diligence to ensure that the relatively low-price bid submitted by the first ranked tenderer for both Lots was deliverable. This included a clarification meeting with the bidder to discuss their tender submission and gain assurance that the bid was viable and sustainable. The meeting focused on aspects of the bidder's proposal relating to resources, service delivery, rates and ability to deliver both contracts simultaneously. The Councils received sufficient assurances from the provider that they were able to deliver the service for the quoted bid price.
- 2.9 This extensive clarification period delayed the contract award, necessitating a three-month extension of the existing advocacy contract with the incumbent provider.
- 2.10 On 5 January 2018, the London Borough of Enfield acting in their capacity as the Lead Authority for the existing contract with the incumbent provider, invoked clause 2.2 of the service agreement, thereby giving notice of the intention to extend the existing contract for advocacy services from 1st April 2018 – 30th June 2018, to ensure service continuity.
- 2.11 A commencement date for the delivery of the new contract was set as 1st July 2018.
- 2.12 However, in May 2018 (during the contract mobilisation phase), the first ranked tenderer who had been awarded the contract for both Lots, advised the Councils that their tender submission was no longer tenable on the grounds that they required additional funds for start-up and on-going expenditure. The provider stated that they had been unaware of these costs at the time of their tender submission.
- 2.13 The Councils responded that since all providers bidding for the contract had submitted tenders on the basis of the same information, it would not be possible to accept significant amendments to an individual provider's bid, as this would affect the ranking of the providers' bids and potentially expose the Councils to challenge from the non-winning tenderers.
- 2.14 The Councils advised the provider that had been awarded the contract to stand by their original submission or withdraw; the provider elected to withdraw.
- 2.15 This necessitated a further four-month extension of the current contract for advocacy services, to ensure service continuity from 1 July 2018 to 31 October 2018, and to allow sufficient time for successful mobilisation of the new contract.
- 2.16 The Councils are now recommending the award of contracts to the second ranked tenderers for each lot, and a new commencement date for contract delivery has been set as 1 November 2018.
- 2.17 The award of this contract is contingent upon approval by the London Borough of Haringey, which is the designated Lead Authority.

- 2.18 The London Borough of Haringey will award and execute the contract on behalf of the London Boroughs of Barnet and Enfield.
- 2.19 The contract shall be for an initial period of three years, with an option to extend for a further period of up to one year plus one year, in accordance with the terms and conditions of the contract, and subject to satisfactory performance and budgetary approval.
- 2.20 The aggregated cost for the block contract element of providing these services over the contract's five-year term is £472,790. There is an option to spot purchase up to 1000 additional hours. Further detail regarding this is provided in the resources section of this report.
- 2.21 The London Borough of Barnet has existing arrangements for the provision of Care Act Advocacy and Children's Advocacy independent of the London Boroughs of Enfield and Haringey; therefore, the sections of the contract that refer to Care Act Advocacy and Children's Advocacy are not applicable to Barnet. As Bidder 1 has now withdrawn from the contract, a tri-borough decision has been made to award the contract to the second ranked bidders for each Lot.
- 2.22 For each Lot, Barnet, Enfield and Haringey Council agreed to an initial block contract price equivalent to a defined volume of activity (guaranteed hours); and then to an additional spot rate to purchase an additional 1000 hours of activity by Lot if the guaranteed hours in the initial block contract are exceeded due to greater demand than is currently anticipated.
- 2.23 The Councils are not anticipating growth in referral activity so do not expect to have to purchase additional hours activity at the spot rate below. However, the tables below set out both the estimated contract price within the initial block contracts, and the estimated gross contract price, should the additional hours be purchased.
- 2.24 The tables below show the 2nd ranked tenderers being recommended for the contract award, and their submitted bids.

## LOT 1 - IMHA SERVICES

### Successful Bidder – POhWER

Tenderers	Hourly Rate	Additional Hourly Rate	Estimated contract price for 1 year (guaranteed hours)	Estimated contract price for 1 year (plus additional hours)	Estimated contract price for 5 years (guaranteed hours)	Estimated contract price for 5 years (plus additional hours)
<b>BIDDER 1 (WITHDREW)</b>	£18.48	£17.58	£92,400.00	£109,980.00	£462,000	<b>£549,900.00</b>
<b>POHWER</b>	£26.00	£26.00	£130,000.00	£156,000.00	£706,250	<b>£780,000.00</b>
<b>BIDDER 3</b>	£28.25	£25.75	£ 141,250.00	£167,000.00	£650,000	<b>£835,000.00</b>
<b>BIDDER 4</b>	£30.91	£30.00	£ 154,550.00	£184,550.00	£772,750	<b>£922,750.00</b>

## LOT 2 – IMCA/ DOLS AND CARE ACT ADVOCACY SERVICES

Successful Bidder – VoiceAbility

Tenderers	Hourly Rate	Additional Hourly Rate	Estimated contract price for 1 year (guaranteed hours)	Estimated contract price for 1 year (plus additional hours)	Estimated contract price for 5 years (guaranteed hours)	Estimated contract price for 5 years (plus additional hours)
<b>BIDDER 1 (WITHDREW)</b>	£18.48	£16.58	£199,122.00	£215,702.00	£995,610	<b>£1,078,510.00</b>
<b>BIDDER 2</b>	£26.00	£26.00	£280,150.00	£306,150.00	£1,521,968	<b>£1,530,750.00</b>
<b>BIDDER 3</b>	£28.25	£25.75	£304,393.75	£330,143.75	£1,400,750	<b>£1,650,718.75</b>
<b>VOICEABILITY</b>	£23.39	£ 23.39	£ 252,027.25	£275,417.25	£1,260,136	<b>£1,377,086.25</b>

The tables below show the breakdown of Barnet's contribution towards the contracts, based on proportional utilisation.

### Contribution by London Borough of Barnet per annum – guaranteed hours (block contract only)

<b>Note: boroughs make equal contributions</b>		<b>Note: 60% core costs equally shared by participants (proportional to split of contract between Care act and IMCA); 40% costs should be split by utilisation.</b>
<b>Borough</b>	<b>IMHA</b>	<b>IMCA/Care Act</b>
<b>Barnet</b>	<b>£43,333</b>	<b>£51,225 (IMCA only)</b>
<b>Note: Barnet Council is exempt from the Care Act Advocacy element of this procurement and contract as there is existing provision in Barnet.</b>		

### Contribution by London Borough of Barnet per annum- including spot purchase of 1000 additional hours

<b>Note: boroughs to make equal contributions</b>		<b>Note: 60% core costs should be equally shared by participants (proportionate to split of contract between care act and IMCA); 40% costs should be split by utilisation</b>
<b>Borough</b>	<b>IMHA</b>	<b>IMCA/Care Act</b>
<b>Barnet</b>	<b>£52,000</b>	<b>£51,225 (IMCA only) + £7,796 = £59,021</b>

**Total contribution by London Borough of Barnet per annum- block contract (guaranteed hours) and spot purchase of 1000 additional hours**

<b>Note: boroughs to make equal contributions</b>		<b>Note: 60% core costs should be equally shared by participants (proportionate to split of contract between care act and IMCA); 40% costs should be split by utilisation</b>
<b>Borough</b>	<b>IMHA – Block + Additional hours</b>	<b>IMCA/Care Act – Block + Additional hours</b>
<b>Barnet</b>	<b>£52,000</b>	<b>£59,021</b>

**3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The option of Barnet undertaking a stand-alone procurement exercise independent of Enfield and Haringey was considered and rejected in favour of the historic tri-borough arrangement and the anticipated benefit of economies of scale.
- 3.2 Following the withdrawal of the first ranked tenderer for both Lots, the option of starting a new procurement exercise was considered and rejected in favour of awarding the contract to the second ranked tenderers due to the impact on service delivery of a statutory service and the additional financial and resourcing impacts this would incur.

**4. POST DECISION IMPLEMENTATION**

- 4.1 Should the decision recommended in this report be approved, the London Borough of Haringey will inform all Tenderers of the intention to award the contract in writing via email.
- 4.2 All unsuccessful Tenderers will receive written notification of the outcome of the procurement evaluation exercise and the Councils’ contract award intentions via email. This will take the form of an “unsuccessful letter”.
- 4.3 The Councils will notify the successful Tenderers in writing of the acceptance of their Tenders for the Contract and will publish an award notice in the Official Journal of the European Union (OJEU) and Contracts Finder.
- 4.4 Upon acceptance of the Tenders, the London Borough Haringey are responsible for the execution of the formal contract.
- 4.5 This procurement is for Health and Social Care Services which falls under the ‘Light touch regime’ as described in Chapter 3 to the Public Contract Regulations (PCR) 2015.
- 4.6 The Adults and Communities Delivery Unit of the London Borough of Barnet will monitor the contract on a quarterly basis alongside the London Borough of Haringey, who will be the lead commissioner. This will involve working in partnership with the Service Providers (POhWER and VoiceAbility) to ensure safe, effective and efficient statutory advocacy provision in Barnet.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 These contracts will form part of the Council's statutory duties under the Care Act 2014 including duties concerning promoting wellbeing, prevention and transition to adult care and support.

5.1.2 The contract supports the Council's Corporate Plan strategic objectives 2015-2020 that the Council, working with local, regional and national partners, will strive to ensure that Barnet is the 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 For each Lot, Barnet, Enfield and Haringey Councils agreed to an initial block contract price equivalent to a defined volume of activity (guaranteed hours); and then to an additional spot rate to purchase an additional 1000 hours of activity by Lot, if the guaranteed hours in the initial block contract are exceeded due to greater demand than anticipated.

5.2.2 The Councils are not anticipating growth in referral activity so do not expect to have to purchase additional hours of activity at the spot rate below. However, the table below sets out both the estimated contract price within the initial block contracts, and the estimated gross contract price, should the additional hours be purchased.

5.2.3 The contract value authorised by the Policy and Resources Committee on 1 December 2016 through the Council's Forward Plan 2017/18 for the work streams was £460,000 for 5 years, which includes the option for a one year plus one year extension (subject to satisfactory performance and budget).

5.2.4 Based on the prices submitted by the second ranked tenderers to whom the award of this contract is recommended, Barnet's Council's expenditure over the five-year term is expected to be £472,790, should planned activity match actual activity and additional hours are not utilised.

5.2.5 Under the terms of this contract, the use of additional hours could potentially increase Barnet Council's expenditure to £555,105 over the five-year term.

5.2.6 There will be rigorous monitoring of spend and usage; should activity exceed the budget permitted, further authority would then be sought in line with the contract procedure rules and thresholds for authorisation and acceptance.

5.2.7 The tables below illustrate these figures.



### Barnet contribution – block contract (guaranteed hours only)

Note: boroughs to make equal contributions		Note: 60% core costs should be equally shared by participants (proportionate to split of contract between care act and IMCA); 40% costs should be split by usage	Total Per Annum	5 year Total
BOROUGH	IMHA	IMCA/CARE ACT		
Barnet	£43,333	£51,225 (IMCA only)	£94,558	£472,790

### Barnet contribution – including spot purchase of 1000 additional hours

Note: boroughs to make equal contributions		Note: 60% core costs should be equally shared by participants (proportionate to split of contract between care act and IMCA); 40% costs should be split by usage	Total Per Annum	5 year Total
BOROUGH	IMHA	IMCA/CARE ACT		
Barnet	£52,000	£59,021 (IMCA only)	£111,021	£555,105

5.2.8 The existing contract for advocacy services is funded through both NHS Barnet Clinical Commissioning Group (CCG) and the Adults and Communities revenue budget. Previous variation funding was from the Adults and Communities revenue budget.

5.2.9 Regular financial monitoring forms part of the contract, as does working within the ethos of continuous service improvement.

### 5.3 Social Value

5.3.1 Innovation and social value were key components of the method statements. Tenderers were asked to detail how they would support each borough's growth, sustainability and social value policies in ways that enhance the delivery of the services (e.g. through the use of volunteers and apprentices in delivery of provision).

### 5.4 Legal and Constitutional References

5.4.1 The services delivered under this contract are subject to the 'Light Touch Regime' under Regulations 74 to 76 of the Public Contracts Regulations 2015.

5.4.2 The Contract and tri-borough Partnership Agreement, which describe each Local Authority's obligations and the agreed financial and non-financial contributions of each borough, have been reviewed by HB Public Law.

5.4.3 According to Barnet Council's Contract Procedure Rules - for contracts with a total value of £181,302 – £500,000, the authorisation to commence a procurement process and acceptance of the procurement outcome must be granted by the Chief Officer in consultation with the Theme Committee Chairman, as documented by an Officer Chairman Delegated Powers Report.

## 5.5 Risk Management

5.5.1 The award of this contract is unlikely to raise any public concern as these services are already in operation.

5.5.2 Risks associated with the procurement process are being mitigated by regular stakeholder meetings.

5.5.3 The risk of managing a contract across three Boroughs will be mitigated by a Partnership Agreement and coordinated contract monitoring. The three boroughs have successfully implemented this approach since 2010.

5.5.4 The risk of service failure during contract mobilisation has been addressed by extending the current contract for four months to ensure sufficient time for the new providers to commence service delivery, as well as a schedule of regular implementation meetings.

5.5.5 The risk that the new contract will not deliver value for money will be mitigated by regular contract monitoring to ensure that the activity and performance match those outlined within the service specification.

## 5.6 Equalities and Diversity

5.6.1 Pursuant to the Equality Act 2010, the Council and all other organisations exercising public functions on its behalf must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

5.6.2 Any organisation providing public sector services is subject to scrutiny by the Council to ensure that delivery complies with the Public-Sector Equality Duty.

5.6.3 Further equality-specific measures may be developed with reference to particular projects as the contract progresses, to ensure that the organisation acts in keeping with the Council's public sector equality duty.

## 5.7 Corporate Parenting

The decisions within this document have no direct or indirect impact on corporate parenting with regards to looked after children or children leaving care.

## 5.8 Consultation and Engagement

5.8.1 Prior to the commencement of this tender, providers were invited to attend a market event hosted by the London Borough of Haringey, on Thursday 14 September 2017. Subsequently, there have been regular discussions and meetings between the Councils' Lead Commissioners, the incumbent service providers and the proposed incoming providers.

5.8.2 The aims and objectives of the market event are detailed below:

- To provide an outline of the changing context and requirements around advocacy
- To share intelligence and generate insights on current and future advocacy supply and demand in Barnet, Enfield and Haringey.
- To share the proposed commissioning model and Borough specific Advocacy requirements (**IMHA and IMCA/DOLS RPR only for Barnet**)
- To provide an opportunity for providers to raise questions.

## 5.9 Insight

5.9.1 Insight data was used to support the delivery of the Annual Procurement Forward Plan which enabled the preparation of market engagement with internal and external stakeholders prior to the procurement exercise and Barnet's community requirements were taken into account to inform these.

## 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/CRC20Report20IMCA 20DOLS20IM](http://barnet.moderngov.co.uk/documents/s13282/CRC20Report20IMCA%20DOLS20IM)

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/Authorisation20for20Waiver20of20Best20Interest20Assessor20and20Mental20Health20Assessor20Service.pdf>

6.3 Policy and Resources Committee, 1st December 2016: Procurement Forward Plan 2017-18:  
<https://barnet.moderngov.co.uk/documents/s36302/Appendix2012020Annual20Procurement20Forward20Plan202017-18.pdf>

6.4 Adults and Safeguarding Committee, 6<sup>th</sup> March 2017: Extension of and Variation of IMCA and IMHA contract:  
<http://barnet.moderngov.co.uk/documents/s38338/Extension20of20and20variation20of20IMCA20and20IMHA20contract.pdf>

Chairman:  
Has been consulted

Signed



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Date 11<sup>th</sup> September 2018

Chief Officer:  
Decision maker having taken into account the views of the Chairman



Signed

Date 18<sup>th</sup> September 2018  
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