

8 November 2011		ITEM 5
Corporate Overview and Scrutiny Committee		
Advocacy Contracts		
Report of: Roger Harris, Head of Commissioning : People's Directorate		
Wards and communities affected: All	Key Decision: Yes	
Accountable Head of Service: Roger Harris : Head of Commissioning		
Accountable Director: Jo Olsson : Director of People's Services		
This report is Public		
Purpose of Report: To provide further information requested in relation to the September Cabinet report which sought authorisation to go out to tender for Adult Social Care advocacy services.		

EXECUTIVE SUMMARY

This report is responding to the five specific queries raised by a number of members following the September Cabinet report seeking authorisation to go out to tender for Adult Social Care advocacy services.

1. RECOMMENDATIONS:

1.1 To consider and comment on the information contained in this report.

2. INTRODUCTION AND BACKGROUND:

- 2.1 Our current advocacy contracts run out at the end of this financial year – 31.3.12. The September Cabinet report sought approval to commence a procurement exercise to renew these contracts – a copy of which is attached. We have been working closely with our User Led Organisation (ULO) to develop the specification for these contracts to ensure transparency and consistency across client groups – this will be complete by the end of November.
- 2.2 Our ULO is **The Thurrock Coalition**. ULO's are 'organisations that are run by and controlled by people who use support services, including disabled people of any impairment, older people, and families and carers' : (DofH Guidance).

ULO's were set up to give people more control over how their support needs are met. Giving a voice to people who often go unheard and ensuring that people using Adult Social Care services and their families influence policy and provision.

As such, it is appropriate that Adult Social Care aims to co-produce the advocacy specification with the ULO as both the aim of this organisation and ultimately the advocacy services we procure are about empowering vulnerable people, giving them more control and ensuring they have a voice.

3. ISSUES AND/OR OPTIONS:

3.1 Detailed below are the five specific matters that the call-in asked scrutiny committee to consider plus a response to those points :

a). How the Council is considering the likely impact of the new responsibilities and modelled funding for DOLs and advocacy which is outlined in the Department of Health Consultation document 'Consultation of Allocation Options for distribution of additional funding to local authorities of: Local Health watch, NHS Complaints Advocacy, PCT Deprivation of Liberty Safeguards'.

3.2 The arrangements regarding Health Watch and the transfer of the other funding streams are still awaiting final guidance from the Department of Health following the recent consultation exercise on different funding allocation formulae.

3.3 The earliest that Health Watch will be commissioned will be from October 2012 - subject to the passing of the Health and Social Care Bill. Therefore, the timing is not consistent with the timing of the proposed start of the new advocacy contracts i.e. 1st April 2012.

3.4 Also local Health Watch will be responsible for signposting services – it is unlikely that it will be taking a significant role in caseworking – which is what a great deal of the work of our current advocacy agencies do. Signposting should not be confused with advocacy but is rather a wider information and advice role. Therefore, we have taken the view that the role of Health Watch will be different from what our proposed advocacy contracts are hoping to deliver.

3.5 The NHS complaints advocacy function is quite narrow and the funding is not due to pass to us to April 2013. Again we would not want to hold back from commissioning our local advocacy services whilst this uncertainty existed.

3.6 The transfer of DoL contracts will ensure that the specification is up to date and takes account of the change in responsibility as current specifications will be limited to a residential rather than hospital setting.

b). Whether a delegated decision to the relevant Direct (for the award of the contract) represents openness and transparency in the decision making process.

3.7 Generally, the decision to award a contract is constrained by the requirements of the EU Procurement Regulations and the Council's Constitution, which requires contracts to be awarded to the highest scoring tenderer in a compliant competitive tendering exercise; failure to do so will attract costly legal challenges.

Under Clause 8.1 of Part 2 of Chapter 9 of the Constitution decisions to award contracts may be delegated to Director reporting to a delegated Cabinet Member. This subsequent decision to award a contract, must still be published.

The procurement of this contract and subsequent award will comply with this process. In accordance with the above, the decision to award this contract will be based on the highest scoring tenderers, in a compliant tender process. This is open to challenge from tenderers and feedback is given to all unsuccessful applicants. The tender process will comply with the principles of fairness and transparency.

c). How the Council expects to tender the contract in lots – as appropriate details is not shown to reassure Members that they will be attractive to a range of bidders.

3.8 The idea behind the possibility of awarding the contract in separate lots is that the lots will be based on client group e.g. a mental health contract or a learning disability contract and potential size of service (e.g. if we only had a need for 20 hours advocacy per annum for people with a physical disability this would make it an unviable contract and as such we would combine this with another 'lot').

3.9 The final nature of the lots will be determined as part of the ongoing discussion with our ULO. Although we will give the option of going for all or numerous lots, the intention is to make sure that local specialist and voluntary sector organisations also feel well placed/able to go for this opportunity as they may not have the capacity to go for a larger contract.

d). Whether the Council has explored opportunities to procure services jointly with others.

3.10 The Council did consider working with neighbouring authorities but wished to recognise the importance and value of local advocacy services for local people. We felt this was best achieved by running our own tender process. We communicate with our closest neighbour Essex County Council regularly about commissioning opportunities. Essex currently has a single contract for the provision of advocacy services in the County.

e). How the Council will take account of a wider range of users either at the start, or during the life of the Contract.

3.11 The User Led Organisation (ULO) involvement in the production of the service specification is to ensure we capture current and potential user's voices in the design of the service. Our contract monitoring processes involve service users in the assessment of quality.

4. CONSULTATION (including Overview and Scrutiny, if applicable)

4.1 As stated above this process has been done in conjunction with our User Led Organisation.

5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

5.1 This proposal is consistent with and supports the Community Strategy in that it will ensure the commissioning of high quality services based on the identifiable needs of Thurrock's communities.

6. IMPLICATIONS

6.1 Financial

Implications verified by: Funké Nana
Telephone and email: 01375 652 451 fnana@thurrock.gov.uk

These were detailed in the exempt report that went to Cabinet in September.

6.2 Legal

Implications verified by: Daniel Toohey
Telephone and email: 01375 65 2049; dtoohey@thurrock.gov.uk

Generally, the decision to award a contract is constrained by the requirements of the EU Procurement Regulations and the Council's Constitution, which requires contracts to be awarded to the highest scoring tenderer in a compliant competitive tendering exercise; failure to do so will attract costly legal challenges.

Under Clause 8.1 of Part 2 of Chapter 9 of the Constitution decisions to award contracts may be delegated to Director reporting to a delegated Cabinet Member. This subsequent decision to award a contract, must be published.

6.3 Diversity and Equality

Implications verified by: **Samson DeAlyn**
Telephone and email: **01375 652472**
sdealyn@thurrock.gov.uk

Advocacy Services provide an essential voice for vulnerable groups. They provide direct casework, help and support in situations where people may be at risk of losing their individual liberty – e.g. at tribunals. Advocacy services also enable vulnerable groups to participate in ordinary activities e.g. organising their finances. A key aspect of any contract relating to the supply of these services will be establishing appropriate monitoring arrangements to ensure the service is accessible to a wide range of service users. The service specification and contact monitoring framework will need to be subject to Equality Impact Analysis (EqIA) to ensure the contract meets the needs of all users.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

N/A

7. CONCLUSION

- 7.1 This report has addressed the concerns of the call-in and subject to any further concerns raised by members officers are seeking support to commence the procurement of this valuable service.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Department of Health Consultation exercise on funding formula for local Health Watch.

APPENDICES TO THIS REPORT:

- Cabinet Report – Advocacy Services September 2011.

Report Author Contact Details:

Name: Roger Harris
Telephone: 01375.652192
E-mail: rharris@thurrock.gov.uk