

**Report Title: Here**

**Advocacy Services Procurement**

Date of meeting:	3rd October 2024.		
Report to:	Cabinet		
Report of:	Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director		
Portfolio:	Cabinet Member - Adult Social Care and Health and Deputy Leader		
Wards affected:	All.		
Is this a key decision:	Yes	Included in Forward Plan:	Yes
Exempt/confidential report:	No		

**Summary:**

To seek approval to complete a procurement exercise for Advocacy Services.

**Recommendation(s):**

Cabinet is recommended to approve and note the following:

- (1) Approval to commence a procurement exercise to establish new contracts from 1<sup>st</sup> April 2025 for the provision of advocacy services.
- (2) Approve delegation of decisions on the inclusion of both Children’s Service and Health advocacy services in the procurement exercise to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children’s Services and the Cabinet Members for Children’s and Adult Social Care & Health, either as part of the original procurement exercise or throughout the duration of any new procurement framework established.
- (3) That decisions on the commissioning / procurement framework model, tender evaluation criteria, contracting models, contract terms and conditions, and service specification to be applied to the procurement exercises, be delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children’s Services (if the contracts are to include Children’s Services advocacy services) and the Cabinet Members for Children’s and Adult Social Care & Health, throughout the

duration of the procurement framework, and on the basis that they can be contained within existing and approved budget provision for such services.

- (4) Contracts to be awarded for an initial contract term of three years with the option to further extend for a period of up to two years, (either as a single extension or via two separate twelve-month extensions) subject to satisfactory performance and demonstration of value for money of the successful supplier/s, and the required budget being available, and that decisions on the awarding of the contracts, and any permitted extensions thereof, be delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services (if the contracts are to include Children's Services advocacy services) and the Cabinet Members for Children's and Adult Social Care & Health.
- (5) Should it be identified during the contractual period that the contracts need to be increased in value to reflect increases in demand for advocacy services and to ensure that Sefton continues to meet its statutory obligations, then delegated authority be given to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services (if the contracts are to include Children's Services advocacy services) and the Cabinet Members for Children's and Adult Social Care & Health to approve any such increases, under the proviso that the additional expenditure can be met with existing budget provision, falls within the associated delegated authority to approve such an increase, and is in line with the applicable procurement regulations.
- (6) Authorise the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with Cabinet Member for Adult Social Care & Health to authorise and implement a maximum 12-month extension to current Adult Social Care commissioned advocacy services contracts, should there be any delay to the procurement exercise and any new contractual arrangements commencing on 1<sup>st</sup> April 2025.

## **1. The Rationale and Evidence for the Recommendations**

- 1.1. Advocacy services support individuals to allow their voice and opinions to be heard and support them to express these in situations where they may not be able to do this fully by themselves.
- 1.2. Advocates and Advocacy providers work in partnership with the people they support and promote social inclusion and equality.
- 1.3. Advocacy is essential for people who, due to a disability, cultural difference, health condition, communication difficulty, financial circumstances or social attitudes, find themselves in a position where their ability to exercise choice or represent their own interests is limited, or where processes are particularly complex to navigate, such as social care and health pathways or where there is a safeguarding issue. Advocates play an important role in feeding back how to improve services to make them more accessible to people.

## **Current Advocacy Provision and Associated Contracts**

- 1.4. The Care Act 2014 places a statutory duty on Local Authorities to involve people in decisions made about them and their care and support. No matter how complex a person's needs, Local Authorities are required to help people express their wishes and feelings, support them in weighing up their options, and assist them in making their own decisions.
- 1.5. Sefton Council has a statutory obligation to provide the following advocacy services:
  - Independent Mental Capacity Advocates (IMCA) under the Mental Capacity Act 2005
  - Relevant Person's Representative (RPR)
  - Independent Mental Health Advocates (IMHA) under the Mental Health Act 2007
  - Independent Health Complaints Advocacy (IHCA) under the Health & Social Care Act 2012
  - Independent Care Act Advocacy (ICAA) under the Care Act 2014
  - Parent Carers Advocacy.
- 1.6. Independent Mental Capacity Advocacy (IMCA) is a statutory service for those over the age of 16, who have no close family or friends or any other person to help protect their interests under specific circumstances. Local Authorities have an obligation to instruct and consult an IMCA when certain decisions are being made on behalf of people who lack capacity and who do not have any family or friends to represent them.
- 1.7. The Local Authority has the additional discretion to instruct an IMCA during a Care Act assessment or review. Decisions in which an IMCA must be involved (where a person is deemed to lack capacity to make the following decisions and has no close family or friends or any other person to help protect their interests) include changes of accommodation.
- 1.8. For Care Act advocacy the Care Act 2014 states that Local Authorities must involve people in decisions made about them and their care and support, no matter how complex a person's needs, to help people to express their wishes and feelings, support them in weighing up their options, and assist them in making their own decisions. An independent advocate can be appointed as required to support and represent the person.
- 1.9. Independent Mental Health Act (IMHA) Advocacy service is a statutory service that was introduced in the 2007 amendments to the Mental Health Act 1983. The Health and Social Care Act 2012 updated this and placed a statutory duty on Local Authorities to commission the service. IMHAs support inpatients to understand their rights, provisions of the legislation under which they qualify (and any restrictions imposed), understand treatment being given or proposed under the Act and to gain and understanding of rights under the Act and how to exercise those rights.
- 1.10 The Relevant Person's Representative (RPR) is appointed to a person subject to a Deprivation of Liberty Safeguards (DoLS), where they do not have family or friends, or there is potential conflict of interest in a friend or family member undertaking this role.
- 1.11 For Independent Health Complaints Advocacy (IHCA) – this is an advocate specially trained to help people through the NHS complaints process. It is a statutory service which means

that anyone making a complaint about the NHS has a right to advocacy support. People can have help from an advocate at any point in the complaints process.

1.12 In addition to the above statutory services, Sefton Council and Cheshire & Merseyside ICB - Sefton Place also commission Community Advocacy as it has an important role in supporting individuals, the health and care system and communities. This encompasses:

- **General Advocacy** - short-term, issue-based advocacy and, when required, longer term advocacy support in specifically identified circumstances. An advocate will support a person to have a strong voice when they need to make an important decision or if they are facing issues they need help with. An advocate will make sure the person's voice is heard, help them to have more choice and speak on the person's behalf.
- **Self Advocacy** – when the advocate and the advocacy partner share similar experiences or environments. It sometimes means that people who have experienced the same things feel they have a better understanding and can be more supportive.

1.13. Sefton Children's Services also commission Parent Carer Advocacy, which has seen a growth in demand. There is also a need to ensure that advocacy provision for Parents and Children who are both seeking advocacy are delivered by separate Advocacy Providers to take into account any potential conflicts.

1.14. For statutory provision current contracts are in place until 31<sup>st</sup> March 2025 and do not include any further options to extend, therefore resulting in the requirement to conduct a procurement exercise to establish new contracts from 1<sup>st</sup> April 2025. Due to further work required with Children's Services and Cheshire & Merseyside ICB - Sefton Place, it is also recommended that approval is given to implement any required direct award to extend existing contracts up to a period of twelve months, based on current annual contract values which total £273,850. This is to allow the partnership arrangements and the procurement model to be developed and finalised, and to take into account any delays to this work.

1.15. For non-statutory provision, current agreements have been extended up to 31<sup>st</sup> March 2025 in order to align contract end dates and to support potential future procurement approaches.

1.16. It is important to highlight that demand for advocacy services is increasing. Work is taking place to assess increased levels of demand and will be included in the procurement information published for bidders, including ensuring that successful bidders can support with meeting future growth in demand, which could increase by a minimum of 10%, but could be as high as 25% year-on-year over the lifetime of future contracts. Therefore, future annual expenditure may need to increase to reflect this. Annual inflationary uplifts will also be applied to the contract. Any additional expenditure will need to be met from existing Adult Social Care, Children's Social Care and Cheshire & Merseyside ICB - Sefton Place budgets.

### **Future Procurement Exercise**

1.17. As a result of the above, there is a need to seek approval to commence a procurement exercise to establish new contracts from 1<sup>st</sup> April 2025 for the provision of advocacy services.

1.18. However, there is also scope to include within the procurement exercise further advocacy provision in order to support ongoing integrated joint working and delivery of services

between Adult Social Care, Cheshire & Merseyside ICB - Sefton Place and Children's services.

- 1.19. This could encompass the development of an 'Advocacy Hub' which would include all advocacy provision and operate with a lead provider model to provide a single point of access that takes all referrals, triages, provides support and signposts where necessary. This could then provide people who need advocacy services with a more effective and efficient service, reducing hand offs between advocacy organisations whilst improving outcomes. Under such a potential Hub model any such lead provider could deliver all statutory provision and either deliver the non-statutory provision or enter into a partnership arrangement with other organisations to deliver it.
- 1.20. It may also be the case though that the current advocacy services outlined in sections 1.5 and 1.12 of this report are commissioned as separate 'lots' or as grouped 'lots' for statutory and non-statutory provision.
- 1.21. Currently decisions on any procurement exercise including Health and/or Children's services have not been finalised. Discussions with Cheshire & Merseyside ICB - Sefton Place and Children's partners are ongoing, and should they be included as part of the initial procurement exercise, then it is recommended that decisions on their inclusion in the procurement exercise are delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services and the Cabinet Members for Children's and Adult Social Care & Health.
- 1.22. If it is the case that either Children's Services and/or Cheshire & Merseyside ICB - Sefton Place advocacy services are not included in the initial procurement exercise, then it is proposed that, when formulating the procurement, it is shaped in a way that affords both Children's Services and Cheshire & Merseyside ICB - Sefton Place to be part of the procurement arrangements in the future, for example through the implementation of a new framework that could include these future 'lots'.
- 1.23. For any procurement exercise it will be a Light Touch regime open exercise led by Adult Social Care, and it is proposed that decisions on the commissioning / procurement framework model, tender evaluation criteria, contracting models, contract terms and conditions, and service specification to be applied to the procurement exercises, be delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services (if the contracts are to include Children's Services advocacy services) and the Cabinet Member – Adult Social Care & Health, throughout the duration of the procurement framework and on the basis that they can be contained within existing and approved budget provision for such services. The final procurement approach will be developed with, and approved by the Council's Procurement and Legal Teams
- 1.24. Any new service specification will be developed in partnership, including taking into account the views and experiences of people that have used Advocacy services. The specification will also include targets for acceptance of referrals and the delivery of direct advocacy provision to people.
- 1.25. For any contracts awarded it is proposed that they are entered into for an initial contract term of three years with the option to further extend for a period of up to two years, (either as a single extension or via two separate twelve-month extensions) subject to satisfactory performance and demonstration of value for money of the successful supplier/s and the

required budget being available, and that decisions on the awarding of the contracts, and any permitted extensions thereof, are delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services (if the contracts are to include Children's Services advocacy services) and the Cabinet Members for Children's and Adult Social Care & Health.

1.26. It is also proposed that, should it be identified during the period that new contracts are in place, any such contracts need to be increased in value to reflect increases in demand for advocacy services (for example Relevant Person's Representative advocacy) to ensure that Sefton continues to meet its statutory obligations, then delegated authority is given to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Director of Children's Services (if the contracts are to include Children's Services advocacy services) and the Cabinet Members for Children's and Adult Social Care & Health to approve any such increases, under the proviso that the additional expenditure can be met with existing budget provision, falls within the associated delegated authority to approve such an increase, and is in line with the applicable procurement regulations.

## **2. Financial Implications**

Revenue costs will be met from the existing Adult Social Care, Children's Social Care & Cheshire & Merseyside ICB - Sefton Place budgets, should the procurement encompass joint commissioning with Cheshire & Merseyside ICB - Sefton Place and Children's services. Both statutory and non-statutory advocacy provision are in scope for the procurement with a combined current annual contract value of £604,026, of which £336,129 is within the Adult Social Care Budget. However, there is a potential that due to growth in demand for advocacy services, contract values may need to be increased. Any increase to expenditure will need to be met from existing associated budgets.

## **3. Legal Implications:**

- Care Act 2014
- Care and Support Statutory Guidance

## **4. Corporate Risk Implications:**

There is a risk that not commencing a procurement exercise could result in statutory advocacy services not being delivered.

There is a further risk that should recommendation 6 of this report be enacted to further extend existing contracts for up to twelve months as these are historic contracts. The Council seeks to manage and mitigate any risks by commencing the procurement exercise. Any such extension would be intended to allow the Council time to run a compliant procurement process.

## **5. Staffing HR Implications:**

It is envisaged that any procurement exercise may encompass TUPE transfer of staff from existing Providers.

## 6. Conclusion:

6.1 The rationale for the recommendations in this report have been formulated to ensure that a procurement exercise takes place to secure ongoing delivery of Advocacy Services from 1<sup>st</sup> April 2025.

### Alternative Options Considered and Rejected:

None.

<b>Equality Implications:</b>
There are no equality implications.
<b>Impact on Children and Young People:</b>
Advocacy services will continue to be provided to people, including younger adults aged 18 and above. Should the procurement exercise include Children's advocacy provision, this would ensure that Children & Young People continue to be able to access Advocacy services.
<b>Climate Emergency Implications:</b>
The recommendations within this report will have a Neutral impact.

### What consultations have taken place on the proposals and when?

#### (A) Internal Consultations

The Executive Director of Corporate Services and Commercial (FD.7773/24) and the Chief Legal and Democratic Officer (LD.5873/24) have been consulted and any comments have been incorporated into the report.

#### (B) External Consultations

Engagement has taken place with current providers regarding extension of existing contracts and ongoing engagement will take place with key stakeholders, including Health and Children's services as part of the formulation of final proposals on specifics of the procurement exercise.

### Implementation Date for the Decision:

Following the expiry of the “call-in” period for the Committee decision.

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**Appendices:**

There are no appendices to this report

**Background Papers:**

None.