

The Vale of Glamorgan Council

Cabinet Meeting: 26 September, 2016

Report of the Cabinet Member for Housing and Social Care & Health

Independent Mental Capacity Advocates/Relevant Persons Representative

Purpose of the Report

1. To seek Cabinet approval for the Social Services Directorate to act as lead commissioner on behalf of the Vale of Glamorgan Council and the City of Cardiff Council for regional procurement of a provider of Relevant Persons Representative/Independent Mental Capacity Advocates.

Recommendations

1. That Cabinet notes the requirement for an advocacy service to support the Deprivation of Liberty Safeguards Service.
2. That Cabinet delegate to the Director of Social Services, in consultation with the Cabinet Member for Housing and Social Care and Health, to prepare and issue tender documentation in order to procure a joint service for the provision of advocacy services.
3. That Cabinet delegates to the Director of Social Services, in consultation with the Cabinet Member for Housing and Social Care and Health, to accept a tender for an advocacy service and authorise the Head of Legal Services to execute a contract with the successful bidder.

Reasons for the Recommendations

- 1-3. To advise Cabinet of the current position regarding procurement of an IMCA service and to obtain the necessary authority to secure a long-term provider for this important service.

Background

2. The Mental Capacity Act 2005 introduced the Deprivation of Liberty Safeguards (DoLS). These place a duty on the local authority (referred to as the Supervisory Body in the Safeguards) to coordinate a suite of assessments, involving an independent Best Interest Assessor and a specially trained medical practitioner,

whenever a resident of a care home is regarded as being deprived of their liberty. These DoLS assessments allow the Supervisory Body to authorise care arrangements that deprive a person of their liberty under strict criteria and where the care arrangements are in the person's best interests.

3. Section 39 of the Mental Capacity Act 2005 sets out that the Supervisory Body must make an Independent Mental Capacity Advocate available when there is no suitable Relevant Person's Representative (RPR), usually a family member or a friend, to advocate for the deprived person.
4. The current Relevant Persons Representative IMCA service for Vale of Glamorgan Council is jointly commissioned with City of Cardiff Council and it is operated by Training in MIND under a spot purchase contract agreement. This was set up in March 2016 as a temporary measure following termination of a previous spot contract agreement with Advocacy Support Cymru. The Vale of Glamorgan acts as lead commissioner in this arrangement.

Relevant Issues and Options

5. Further to recent changes in case law, the number of people whose care arrangements are authorised under the Deprivation of Liberty Safeguards and require a Relevant Persons Representative IMCA has increased from single figures per year in 2013/14 to 130 Vale of Glamorgan residents and 150 Cardiff residents at the present time. This means that the Vale of Glamorgan is currently purchasing up to 130 hours of advocacy per month at a cost of £25 per hour (totalling over £3250 per month) while Cardiff is purchasing up to 150 hours per month at a cost of £25 per hour (totalling £3750 per month).
6. The relatively higher number of IMCA referrals in the Vale of Glamorgan compared to Cardiff when measured against population is noteworthy but the reasons are not yet fully understood. It may be that the Vale of Glamorgan care homes are complying more fully with their duties under DoLS in making requests for Standard Authorisations.
7. Given initial uncertainty about forecasting demand for the Relevant Persons Representative IMCA service following changes in case law, the Vale of Glamorgan Council and City of Cardiff Council (along with Gwent Authorities) decided to spot purchase the service until the demand stabilised.
8. We believe that the demand had now stabilised to a point where it is advisable to procure the service, on a Cardiff and Vale of Glamorgan regional basis, through a longer-term contract with an Advocacy provider.
9. The Vale of Glamorgan Council and Cardiff Council operate a joint Deprivation of Liberty Safeguards Team based in the Dock Office, in partnership with the Cardiff and Vale University Health Board. It is proposed that Vale of Glamorgan Council and Cardiff Council jointly commission a new contract to provide a Relevant Person's Representative/IMCA service for both authorities, with the Vale of Glamorgan being the lead Authority.
10. The City of Cardiff Council are seeking authorisation for the Vale of Glamorgan to act as lead commissioner through the Officer Decision Report process.

Resource Implications (Financial and Employment)

11. With an estimated unit cost of £25 per hour for the provision of advocacy and with best practice suggesting at least one hour of face-to-face advocacy per referral, the

cost of the new service will be in the region of £45,000 for the Vale and £60,000 for Cardiff per year. This is based upon predicted rates of up to 200 referrals per year, leading to an projected case load of 150 for Vale and 200 for Cardiff during 2016/17 and beyond.

Sustainability and Climate Change Implications

12. None

Legal Implications (to Include Human Rights Implications)

13. The anticipated contract value will mean that, as lead authority, the Vale of Glamorgan will need to tender for a new contract under Part B European Public Authorities Procurement Regulations. Although it is intended that the advocacy provider will be jointly commissioned through a single contract, the provision of individual Independent Mental Capacity Advocacy is uniquely provided on behalf of the relevant Supervisory Body. During the DoLS Assessment process, the Supervisory Body is identified and is individually responsible for authorisation of the care arrangement, which includes the identification and/or provision of the Relevant Persons Representative/IMCA. In effect, this means that the Vale of Glamorgan cannot be responsible for authorisation of a Cardiff resident and vice versa.

Crime and Disorder Implications

14. None.

Equal Opportunities Implications (to include Welsh Language issues)

15. An Equality Impact Assessment has been completed and it is available at [Appendix 1](#). It should be noted that there will be no material change to the service provided as a result changing the means of procuring the service.

Corporate/Service Objectives

16. Adult Social Services Service Plan Objectives: Safeguarding those who are vulnerable and promoting independent living.

Policy Framework and Budget

17. This is a matter for Executive decision and it complies with Adult Social Services Policy: Deprivation of Liberty Safeguards.

Consultation (including Ward Member Consultation)

18. The service provides for relevant residents throughout the Vale of Glamorgan and no consultation with individual Ward Members is necessary.

Relevant Scrutiny Committee

19. Healthy Living and Social Care

Background Papers

None.

Contact Officer

Andrew Cole, Operational Manager - Long Term Care Services

Officers Consulted

Lance Carver, Head of Service, Adult Services

Responsible Officer

Phil Evans, Director of Social Services