

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 20 February, 2017**

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

### **Providing Advocacy Services to Children In Need of Care and Support and Looked After Children and Young People**

#### **Purpose of the Report**

1. To seek authority to work in partnership with Cardiff County Council to develop a Regional Children's Advocacy Service by means of joint commissioning and a shared contract, with the Vale of Glamorgan acting as the lead commissioner.
2. To seek authority to undertake a tender process on behalf of both Councils relating to the provision of advocacy services for children and young people who are children in need of care and support or Looked After by the local authorities.
3. To seek delegated authority to award the contract to the successful provider.

#### **Recommendations**

1. It is recommended that Cabinet authorises the Director of Social Services, in consultation with the Cabinet Member for Housing and Social Care & Health to:
  - Agree a partnership arrangement with Cardiff City Council to start tendering procedures for the services outlined in this report, with the Vale of Glamorgan Council being the lead commissioner; and
  - Following completion of the tender process, to award the contract(s) for this service for an initial period of 3 years with an option to extend for up to a further 2 years; and
  - Seek authority from the Head of Legal Services in the Vale of Glamorgan Council to execute a contract(s) with the successful bidder(s).

#### **Reasons for the Recommendations**

1. To ensure that the Council:
  - Meets the requirements of the Code of Practice on the exercise of Social Services functions in relation to Advocacy under Part 10 and related parts of the Social Services and Well-being (Wales) Act 2014 in a cost effective way that meets the needs of relevant children and young people.

- Meets the requirements of its Financial Regulations and Contract Standing Orders.

## Background

4. The Social Services Directorate in the Vale of Glamorgan currently purchases advocacy services for Children In Need, Looked After children and young people and young people leaving care from NYAS (National Youth Advocacy Service). NYAS is a UK charity providing information, advice, advocacy and legal representation to children, young people and vulnerable adults. There is currently no provision for universal advocacy for children and young people within the Vale of Glamorgan.
5. A child's right to be heard in matters affecting them is set out in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). It also stipulates that 'the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affect the child, either directly, or through a representative or an appropriate body'.
6. The Council has a statutory responsibility to provide advocacy services to children and Young People under the following legislation:
  - The Social Services and Well-being (Wales) Act 2014 requires any persons exercising functions under the Act to have due regard to the UNCRC. Detail on how to carry out this duty has been provided in the Code of Practice in relation to Part 2 of the Act. In addition, the Act requires any persons exercising functions under the Act to have regard to the importance of providing appropriate support to enable the individual to participate in decision which affect them, to the extent which is appropriate in the circumstances. A local authority's duty to provide advocacy services (or assistance by way of representation) in relation to its social services functions comes under section 26a of the Children Act 1989 and it is re-stated under Sections 171-178 of the Social Services and Well-being (Wales) Act.
  - For children and young people, this means that Independent Professional Advocacy must be available to those who are in receipt of care and support as a Looked After Children or a child in need of Care and Support. This is also known as Issue-Based Advocacy.
  - Upon entering the Looked After Children (LAC) system, children and young people who are considered to have sufficient understanding will be referred by their Social Worker and helped to have an introductory meeting with their local Independent Professional Advocate in advance of their first LAC review. This is known as the Active Offer. It also applies to children and young people considered to have sufficient understanding and who require intervention of a safeguarding nature, i.e. those who have a multi-agency child protection plan agreed by a Child Protection Conference. They will have a planned introductory meeting with an Independent Professional Advocate when their names are entered on the Child Protection Register.
7. On behalf of Welsh Government, a strategic review was undertaken of the evidence in relation to statutory independent professional advocacy services (SIPAS) for children and young people in 2014. Following this review, Ministers invited local government (via ADSS Cymru) to bring forward a model for securing a national approach for looked after children and specified groups of children in need.
8. An advocacy Task and Finish Group (T&FG) was established to develop a model, chaired by ADSS Cymru. The T&FG took responsibility for developing the key

components of a National Approach to advocacy, aligned to a Standards and Outcomes Framework. The group was asked to explore:

- the recommendation from 'Missing Voices: Right to be Heard' (the report by the Children's Commissioner on independent advocacy services for children and young people in the care system) in respect of an 'active offer'; and
  - how to deliver the National Approach model at a regional level through lead authorities.
9. The T&FG developed a business case, which set out the key components of a national approach:
- a national standards and outcomes framework;
  - a national service specification, for use by regions in commissioning a service;
  - a range and level Mechanism, to estimate need and cost; and
  - a national approach to a local/regional performance reporting template.
10. The ADSS Executive Council expressed general support for the proposals in the business case. At the WLGA Social Services Policy Group meeting held in March 2016, Elected Members with responsibility for Social Services considered the implications of adopting a national approach as set out in the business case. It was agreed that, in principle, they were content to examine further how local authorities could take forward a national approach. However, in recognition of the additional costs identified, it was accepted that the next step would be for each local authority to receive further information on the national approach (with regional elements) and, in particular, the potential financial implications for their individual authorities. This would enable them to come to an informed view and to engage with other authorities in their region, gauging the level of support for the national approach.
11. Following receipt of further information, local authorities indicated broad support for developing a national approach, with agreement on the overall principles that have been adopted. Some authorities identified that the draft National Approach Service Specification had already been used to influence current contracting arrangements. However, there were concerns raised about some of the implications, especially about how to meet the additional costs identified at a time when budgets are being reduced. Comments included:
- The additional costs are as a result of new requirements being placed on local authorities in an already challenging financial climate; this is especially the case in delivering the 'Active Offer'.
  - The Business Case uses historical information from 2013/14 as its baseline. For a number of authorities, spend on advocacy has decreased since this information was provided and so the actual additional costs will be higher than those cited in the business case.
  - A number of authorities were concerned about the need to protect the rights of children and young people to opt for other forms of advocacy at the outset, as opposed to a narrow choice regarding a uniform 'active offer' from one provider.
12. Since this time, Welsh Government has confirmed its commitment to providing additional funding to support provision of a national approach to advocacy. The Cabinet Secretary for Communities and Children is keen to demonstrate significant

progress in this matter. Consequently, Welsh Government has confirmed its commitment to provide funding for meeting some of the additional costs that will accrue to local authorities, including the costs of the Active Offer in full. On this basis, it was agreed that a local government technical group would be set up by ADSS Cymru and the WLGA in order to look at how best to take this work forward and to support local authorities.

13. Local Authority Leaders were then updated on the work to implement a national approach to advocacy at the WLGA's Co-ordinating Committee. They fully supported the concept and the WLGA asked all local authorities to confirm this commitment to adopting the national approach and the implementation plan produced by ADSS Cymru by June 2017.
14. The Council's Contract Standing Orders require that contracts with an estimated value of £75,000 or higher should be subject to an appropriate procurement process that ensures value for money, compliance with legislation governing the spending of public money and protect individuals from undue criticism or allegation of wrongdoing. The tendering process for the proposed advocacy service has been designed to ensure that these three principles are fulfilled.

### **Relevant Issues and Options**

15. The Vale of Glamorgan Council will undertake the role of lead commissioner on this project. The Council's project management methodology will be used to support the project throughout its various stages.
16. The tender process will be managed by a project group which includes representation from the Children's Services Divisions in both the Vale of Glamorgan Council and Cardiff City Council. The group will meet frequently to allow timely discussions to be held with regards to issues that may occur within the tender processes. Decisions will be discussed and agreed, ensuring continued progress of the tender process within required timescales.
17. Once the tender process has been advertised, organisations will complete an Invitation to Tender (ITT).
18. The quality element of the submission (50%) will be evaluated through a number of means and it will cover areas that have been weighted appropriately in accordance with importance.
19. All providers will be asked to provide written submissions against quality questions included within the ITT document. Their written submissions will be assessed by an internal evaluation panel.
20. Providers will also be evaluated on quality through an interview and presentation process. Providers are to be asked to present their proposals and answer a series of formal questions to the evaluation panel. These responses will be evaluated and scored by the panel.
21. Children and young people will also be involved in the quality element of the process and they will be able to ask direct questions of the potential providers during the interview stage.
22. Following evaluation of overall quality, quality will be combined with the provider financial score to identify the preferred provider for the service.
23. The contract is to be awarded initially for three years, with an option to extend for a further two years in negotiation with the successful provider.

## **Resource Implications (Financial and Employment)**

24. It is the intention of the Vale of Glamorgan Council and Cardiff City Council to undertake a procurement exercise to identify a suitable provider for both Issue-Based Advocacy and the Active Offer advocacy. At this time, however, funding is available from Council resources only for Issue-Based Advocacy. As stated previously, the Welsh Government is committed to funding the Active Offer service in full. Potential providers will be made aware of this during the procurement process.
25. The funding in itself will be challenging for the Council given that the projected cost of providing Issue-Based Advocacy will exceed the available budget. This shortfall is difficult to quantify given that calculations set out in the initial business case submitted to the Welsh Government are based on 2013/14 data. We anticipate that the Welsh Government will provide in the region of £400k-£450k towards the overall cost of the active offer and some service improvements across Wales. The WLGA is negotiating how this will be distributed across local authorities. ADSS Cymru is looking to update the range and level tool using 2014/15 data and a further review should be possible in April when 2015/16 data becomes available. On current estimates, the financial impact for the Vale of Glamorgan will be in the region of £20,000 a year eventually as the scheme becomes embedded. Funding advocacy using the National Approach has been put forward as a cost pressure in the Vale of Glamorgan. Any increase in costs not met as a cost pressure will need to be balanced by savings elsewhere in the Directorate's budget.

## **Sustainability and Climate Change Implications**

26. There are no sustainability and climate change implications as a direct result of this report.

## **Legal Implications (to Include Human Rights Implications)**

27. Any change of service provided as a result of a tendering exercise may result in TUPE being applied. If this occurs, Legal Services will be consulted as appropriate.
28. The review of all working arrangements between the Council and other agencies will ensure that services are provided through robust contracts that fully reflect the responsibilities of the Council and the provider.

## **Crime and Disorder Implications**

29. There are no crime and disorder implications as a direct result of this report.

## **Equal Opportunities Implications (to include Welsh Language issues)**

30. The procurement process will allow for any interested parties from the independent and third sectors to engage, if they so wish. Providers within the tendering process will have to provide evidence of their commitment to equal opportunities.

## **Corporate/Service Objectives**

31. Cabinet has approved the priority objectives set out in the last annual Director's Report which included responding to the requirements of the Social Services and Well-being Act, such as support for developing new approaches to practice and processes areas such as advocacy.

## **Policy Framework and Budget**

32. This is a matter for Executive decision.

## **Consultation (including Ward Member Consultation)**

33. Service users and representative organisations will be included as appropriate as part of the procurement process and service reviews. This is an issue that affects all part of the local authority area and so there has been no consultation with individual ward Members.

## **Relevant Scrutiny Committee**

34. Healthy Living and Social Care.

## **Background Papers**

None

## **Contact Officer**

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## **Officers Consulted**

Team Manager, Contracting and Finance  
Operational Manager, Children and Young People Services

## **Responsible Officer**

Philip Evans, Director of Social Services