

Committee Name and Date of Committee Meeting

Delegated Officer Decision – 20 December 2022

Report Title

Cloverleaf Advocacy T/A Absolute Advocacy – contract extension proposal

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

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Ward(s) Affected

Borough-Wide

Report Summary

Independent advocacy services are necessary to meet all of the Council's statutory requirements under the Care Act 2014, the Mental Capacity Act 2005, the Mental Health Act 1983 and the Health and Social Care Act 2012. Statutory independent advocacy services provide support to people:

- who may require assistance throughout the care and support assessment and through the review process,
- who lack mental capacity to make decision about themselves,
- who are detained under the Mental Health Act,
- who require support to complain about services provided by the NHS.

In addition to statutory advocacy, non-statutory advocacy services are necessary for people who have difficulty articulating and negotiating their health and social care needs. This support empowers people to effectively navigate the health and social care system.

Advocacy involves taking action to help people say what they want, secure their rights, represent their interests and obtain the services they need. Independent Advocacy can reach out to some of the most marginalised and disadvantaged people in the community.

Independent Statutory and non-statutory advocacy services in Rotherham are provided by Cloverleaf Advocacy t/a Absolute Advocacy. Cloverleaf was awarded the contract following a competitive process and commenced service in April 2020 for an agreed term of 3 years + 1 + 1 year.

The service operates a 'Lead Provider' model where Absolute Advocacy as the leading organisation are responsible for the whole contract, including delivering statutory advocacy services, sub-contracting/contract management of NHS Complaints Advocacy, sub-contracting/contract management and development of non-statutory advocacy services. The Lead Provider ensures services are efficient, accessible and are supportive of people in the navigation of service options most appropriate to need.

The Lead Provider model has been successful in terms of offering streamlined access to all forms of advocacy, continuity for people who require multiple advocacy types, and using capacity efficiently. Whilst the objective to develop group advocacy, peer advocacy and self-advocacy have progressed, the original objective to sub-contract to the voluntary sector organisations has not been achieved due to the negative impact of Covid-19 in first the 2 years of the contract period.

Cloverleaf Advocacy t/a Absolute Advocacy delivers a high quality service and is compliant with the contract terms and conditions and provide both statutory and non-statutory advocacy effectively.

The initial contract term concludes in March 2023. The purpose of this report is to recommend that the Strategic Director of ACHPH approve a 12-month extension to the initial contract term in order to provide continuity of service and allow the original objectives outlined above to be fully achieved.

Recommendations

1. To approve a 12-month extension of the initial contract term from April 2023 - March 2024 to enable Cloverleaf Advocacy t/a Absolute Advocacy to continue the service and progress to sub-contract non-statutory advocacy to voluntary sector organisations.

List of Appendices Included

Appendix 1 Record of Officer Executive Decision

Background Papers

Cabinet Report – 16 September 2019 - Adults Independent Advocacy Services - Commissioning and Procurement Approach.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Council Approval Required

No

Exempt from the Press and Public
No

Absolute Advocacy – contract extension proposal

1. Background

1.1 Independent advocacy services are necessary to meet all of the Councils statutory requirements:

Legislation	Statutory Responsibility
Care Act 2014	Independent Care Act Advocacy
Mental Capacity Act 2005	Independent Mental Capacity Advocacy
Mental Health Act 1983 (as amended 2007)	Independent Mental Health Advocacy
Health and Social Care Act 2012	Independent Health Complaints Advocacy

Statutory independent advocacy services provide support to people:

- who may require assistance throughout the care and support assessment and through the review process,
- who are the subject of an adult safeguarding enquiry or a safeguarding adults review and may experience difficulty in understanding the process
- who lack mental capacity to make decision about themselves,
- who are detained under the Mental Health Act,
- who require support to complain about services provided by the NHS.

Non-statutory advocacy:

Non-statutory advocacy services are available to people living in Rotherham who have difficulty articulating and negotiating their health and social care needs. This support empowers people to effectively navigate the health and social care system. Advocacy services that support people to challenge benefit claims are not in scope - people are referred to the Citizen's Advice Rotherham.

1.2 Independent Statutory and non-statutory advocacy services in Rotherham are provided by Cloverleaf Advocacy t/a Absolute Advocacy. They were awarded the contract following a competitive process and commenced service in April 2020 for an agreed term of 3 years + 1 + 1 year. The initial contract term concludes in March 2023.

1.3 The service operates a 'lead provider' model where Absolute Advocacy as the leading organisation is responsible for the whole contract, including delivering statutory advocacy services, sub-contracting/contract management of NHS Complaints Advocacy (statutory) and non-statutory advocacy services. The lead provider ensures services are efficient, accessible and support people to navigate service options most appropriate to need.

- 1.4 The Lead Provider model has been successful in terms of offering, streamlined access, continuity for people accessing the service who require various types of advocacy, and service capacity is used efficiently. Statutory NHS Complaints Advocacy is sub-contracted to Citizens Advice Rotherham without issue. However, whilst the objective to develop group advocacy, peer advocacy and self-advocacy have progressed, the original objective to sub-contract to the wider voluntary sector organisations has not been achieved due to the negative impact of Covid-19 in first the 2 years of the contract period.
- 1.5 The original objective was for non-statutory advocacy to be sub-contracted to VCS organisations whose aims, and concern are for a particular cohort i.e., Learning Disability organisation. This was envisaged to take advantage of available expertise and have a positive impact for people with particular needs who require advocacy services.

1.6 Service Activity and Quality:

Full year (2021-22), Absolute Advocacy received 1,181 new referrals and delivered 13,582 hours of Advocacy support:

Advocacy support provided	Number of new referrals	Hours of Advocacy delivered
Care Act	172	2099.65
Independent Mental Capacity Advocacy	135	1120.43
Relevant Person Representative	239	4173.9
Independent Mental Health Advocacy	466	2166.25
NHS Complaints	65	2205.87
Non-statutory advocacy	104	1816.68
TOTAL	1181	13582.78

There have been no contract concerns throughout the contract period. The organisation is performing well and has shown to be reliable and responsive to dealing with any changing situations.

2. Key Issues

- 2.1 The initial contract term ends on 31 March 2023 with the first extension period being from April 2023 to March 2024. There are currently no alternative plans in place other than to extend the contract beyond its initial term. Should the recommendation to extend the contract be declined, a competitive re-procurement exercise will need to be undertaken immediately to establish a new contract.
- 2.2 The Lead Provider model has been successful in terms of offering, streamlined access, continuity for people accessing the service who require various advocacy types, successful contract management of sub-contracted services and capacity is used efficiently.

- 2.3 Whilst the objective to develop group advocacy, peer advocacy and self-advocacy has been delayed, the provider has recently made significant progress in these areas.
- 2.4 The original objective to develop non statutory advocacy and sub-contract to voluntary sector organisations has not been achieved due to the negative impact of Covid-19 in first the 2 years of the contract period. A further contract extension with the incumbent provider would allow time to progress this objective to reach a successful conclusion.
- 2.5 Absolute Advocacy holds a stable position in the Rotherham market, delivers high-quality service and is technically competent. The impact of change brought about by the introduction of LPS (Liberty Protection Safeguards) will require a flexible response to change. LPSs has been delayed with no confirmed launch date (LPS Code of Practice was out to consultation until 7 July 2022). The existing contract agreement does include provision for alterations to be made to meet changes in requirements to policy and legislation. An extension of the contract term with a competent, high quality and stable provider offers the most practical solution to imminent change.

3. Options considered and recommended proposal

- 3.1 Option 1 – pursue a competitive tender to establish new services. The current contract ends on 31 March 2023. This option is unlikely to achieve any significant benefit in terms of cost or service efficiency and is therefore not recommended.
- 3.2 **Option 2 (recommended)** – Offer a 12-month extension of the contract to the incumbent provider effective from 1 April 2023. For reasons outlined particularly in section 2 and 6 and throughout this report, this option would support the Council to continue to meet its statutory duties and develop a capable voluntary sector for vulnerable people who require assistance to articulate and negotiate the health and social care system.

4. Consultation on proposal

- 4.1 Adult Care and Integration, specifically the DoLS Team, CYPS and the incumbent provider have been consulted and support this recommendation.

Absolute Advocacy has indicated they are able to accommodate an extension of contract.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The contract extension will be agreed and issued to Absolute Advocacy immediately should the recommendations in this report be approved. The Council's Adult Care Strategic Commissioning Team will monitor the expected outcomes and outputs.

6. Financial and Procurement Advice and Implications

6.1 A budget of £395,000 (2022/23), has been sufficient to meet the independent advocacy needs of the Borough. The Council pay £31-£35.10 per hour for advocacy (depending on type) which reflects a reasonable market rate. Benchmarking undertaken on prices paid by other local authorities varies between £30.25 to £39 per hour.

7. Legal Advice and Implications

7.1 The Council's statutory duties to provide rights to advocacy are set out in the following:

- Care Act 2014 – sections 67 – 68
- Mental Capacity Act 2005 – sections 35 – 41
- Mental Health Act 1983 – section 130
- Health and Social Care Act 2012 – section 185

7.2 A contract extension as proposed within the report is provided for in the contract with Absolute Advocacy. Therefore, as there are no concerns with the performance of the provider in relation to the contract, the recommendation to extend the contract is reasonable and sensible.

8. Human Resources Advice and Implications

8.1 None for the Council

9. Implications for Children and Young People and Vulnerable Adults

9.1 Since August 2022, Children and Young People's Services have made and funded referrals through this framework agreement on behalf of adults (looked after children, child protection cases). If this contract was not in place, alternative arrangements would therefore need to be made in relation to CYPS referrals.

9.2 The current contract arrangement supports vulnerable adults with needs relating to physical disabilities, learning disabilities, neurological development disorders, mental health, acquired brain injury and complex needs. This recommendation would enable advocacy support to continue to be made available to potentially vulnerable adults.

10. Equalities and Human Rights Advice and Implications

10.1 Advocacy involves taking action to help people say what they want, secure their rights, represent their interests and obtain the services they need. Independent Advocacy can reach out to some of the most marginalised and disadvantaged people in the community.

11. Implications for CO2 Emissions and Climate Change

11.1 This proposal has no additional impact on emissions.

12. Implications for Partners

- 12.1 Statutory advocacy is commissioned by the Council for recipients of health care i.e., people who are detained under the Mental Health Act, receiving Continuing Health Care, have a diagnosis of dementia, etc. Health partners from South Yorkshire – ICB and Rotherham and Rotherham Doncaster and South Humber Mental Health Trust participated in the co-production activity to support the development of the current service delivery model and will need to be consulted on any changes to be introduced.

13. Risks and Mitigation

- 13.1 Risks
Absolute Advocacy does not accept the proposed 12 -month contract extension.
- 13.2 Mitigation
Absolute Advocacy has indicated that they would be happy to continue the service.

14. Accountable Officers

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