



Mayor and Cabinet

Report title: Permission to Award Contract for Lewisham Advocacy Hub

Date: 9 March 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: All wards

Contributors: Integrated Commissioning Manager, Mental Health Pathways, Legal Services, Group Finance Manager

Outline and recommendations

This report presents the findings of the Lewisham Advocacy Hub procurement exercise and recommends a suitable provider. An open one-staged tender process was undertaken, with a total of three compliant submissions. Following evaluation and moderation, the preferred provider was POhWER.

This report asks Mayor and Cabinet to approve award of the Lewisham Advocacy Hub contract to POhWER at a cost of £504,000 for three years with the option to extend for up to 2 years, at a total contract cost of £840,000.

Timeline of engagement and decision-making

Permission to procure awarded: 14 September 2021

Tender issued: 29 November 2021

Clarification response deadline: 22 December 2021

Tender submission deadline: 25 January 2022

Bid moderation meeting: 4 February 2022

1. Summary

- 1.1 Permission to procure a more streamlined independent advocacy provision, merging two existing services, was approved by Mayor and Cabinet in September 2021.
- 1.2 The budget allocated to the contract was £200,000 per annum for three years, with the option to extend for up to 2 years, at a total contract cost of £1,000,000.

- 1.3 An open one-staged tender process was undertaken to identify a suitable provider to deliver the service.
- 1.4 A total of three providers submitted tenders and following evaluation, the successful provider was POhWER, who is now recommended for acceptance.

2. Recommendations

- 2.1 This report asks Mayor and Cabinet to approve award of the Lewisham Advocacy Hub contract to POhWER at a cost of £504,000 per annum for three years, with the option to extend for up to 2 years, at a total contract cost of £840,000.

3. Policy Context

- 3.1 Section 67 of the **Care Act 2014** outlines the Local Authority's statutory duty to appoint an independent advocate where an individual may experience 'substantial difficulties' in being involved in discussions and decisions related to their care. This duty applies at any stage of an assessment, planning, care review, safeguarding enquiry or safeguarding adult review. Also it applies to all settings, including care homes and prisons.
- 3.2 The 2007 amendments to the **1983 Mental Health Act** clarified those individuals for whom the statutory duty applies:
 - admitted to hospital and sectioned under the mental health act (even if they are currently on leave of absence from hospital) apart from those patients detained under sections 4, 5(2), 5(4), 135 or 136;
 - Subject to Guardianship under the Act
 - placed on a Community Treatment Order
 - that does not have the capacity to make specific decision around their care
 - who needs to make a decision around residential care/nursing home
 - that does not have a friend or family member who is able to make a decision that is in their best interest
 - being considered for a treatment to which section 57 applies ("a section 57 treatment" under the Mental Health Act)
 - under 18 and being considered for electro-convulsive therapy or any other treatment to which section 58A applies ("a section 58A treatment" under the Mental Health Act).
- 3.3. **The Mental Capacity Act 2005:** The Mental Capacity Act, like the Care Act, gives some people who lack capacity access to Independent Mental Capacity Advocacy (IMCA) in order to represent their views. However the duty to provide independent advocacy under the Care Act is broader and applies in a wider set of circumstances.
- 3.4. **The Mental Capacity (Amendment) Act 2019** introduced the Liberty Protection Safeguards (LPS) to replaced the current Deprivation of Liberty Safeguards (DoLS) which are considered by parliament to be too bureaucratic. LPS will have a significant impact on the roles and responsibilities of the Local Authority, Statutory Services and Advocates. LPS is expected to be fully implemented within boroughs by April 2022. This legislative change will amend the roles required within the borough, with Approved Mental Capacity Professionals expected to be in role by the implementation date.

Related legislation includes:

- The Mental Health Act 1983 (amended in 2007)
- The Care Act 2014
- No Health without Mental Health
- NHS Long Term Plan
- NHS Five Year Forward View for Mental Health

- Mental Capacity Act 2005
- Health and Social Care Act 2012
- The Care and Support Regulations 2014
- Improving access to mental health services by 2020

3.5. The new proposed Lewisham Advocacy Hub and the proposed approach to commissioning the service aligns with the Council's Corporate Strategy. Specifically the priorities, "*Delivering and defending: health, social care and support*".

Related local and regional policies and strategies include:

- Health and Wellbeing Strategy
- Violence Against Women and Girls Strategy
- Safer Lewisham Plan
- A Safer City for All Londoners: Police and Crime Plan 2017-2021
- South East London CCG Sustainability and Transformation Plan
- Our Healthier South East London Recovery Plan

4. Background

- 4.1. The Adult Integrated Commissioning Team on behalf of Lewisham Council and South East London CCG currently commissions an Integrated Advocacy Service that provides statutory advocacy including Independent Mental Health Advocacy (IMHA), Independent Mental Capacity Advocacy (IMCA), Care Act Advocacy (CAA) and RPR (Relevant Person's Representatives), to those who individuals that meet the eligibility criteria. Community advocacy is also provided via this service.
- 4.2. A hospital discharge advocacy pilot is also currently running in Lewisham, funded by the Better Care Fund. This project provides advocacy where it is required for patients in University Hospital Lewisham to support hospital discharge and movement back into the community.
- 4.3. The total cost of our current mental health advocacy contracts are as follows:
- Integrated Advocacy Service - £138,596 per annum
 - Hospital Discharge Advocacy Project - £58,000 per annum
- 4.4. The move to Liberty Protection Safeguards will increase demand on the service to incorporate all residents over 16 and those in the community (whether in supported accommodation or at home). Work is currently underway to map out expected impact of these changes within the borough.
- 4.5. Under the current contracts, COVID19 exposed the unnecessary bureaucracy resulting from splitting the current responsibilities across two separate providers and two separate contracts. Working arrangements between various providers and partners during the COVID19 changes and uncertainties were disrupted and the rate of inappropriate referrals rose during this time. Efficiencies are sought through the streamlining and centralisation of all Mental Health advocacy provision in the borough.
- 4.6. Due to the specialist nature of the advocacy provided by the service, it is considered appropriate to commission this service from an external provider, rather than bring the service in house.
- 4.7. It is proposed that a new Lewisham Advocacy Hub be commissioned, which would act as a one-stop shop for those in Lewisham who require statutory mental health advocacy services. A new approach where staff can receive support and guidance regarding types of advocacy and when best to apply them is considered to improve the process of accessing advocacy and reduce delays to advocacy caused by inappropriate referrals and resulting signposting/re-referrals.
- 4.8. The budget allocated to the contract was £200,000 per annum for three years, with the

option to extend for up to 2 years, at a total contract cost of £1,000,000.

- 4.9. Permission to procure this service was granted at Mayor and Cabinet in September 2021; a summary of the procurement process undertaken is provided in section 5.
- 4.10. This report asks Mayor and Cabinet to approve award of the Lewisham Advocacy Hub contract to POHWER; the evaluation process and rationale for this decision are outlined within the next two report sections.
- 4.11. This report asks Mayor and Cabinet to approve award of the Lewisham Advocacy Hub contract to POHWER at a cost of £504,000 for three years with the option to extend for up to 2 years, at a total contract cost of £840,000.
- 4.12. Funding for the service would be split between London Borough of Lewisham (88%) and South East London CCG (12%).
- 4.13. Overall this new contract increases the annual commitment by £29,615 net for this service. Funding to cover this additional cost is subject to annual CCG Better Care Fund allocation, which has been approved for 2022/23.

5. Procurement Process and Arrangements

- 5.1 An open tender was undertaken in order to identify the most appropriate provider via the London Tenders Portal.
- 5.2 A summary of the procurement process can be found in table 1 below.

Table 1: Procurement schedule

Activity	Date
Tender issued	29 November 2021
Clarification submission deadline	17 December 2021
Clarification response deadline	22 December 2021
Original tender return deadline	7 January 2022
Extended tender return deadline	25 January 2022
Tender evaluation deadline	2 February 2022
Moderation date	4 February 2022

- 5.3 The tender deadline was extended by two weeks to enable tenderers to fully incorporate the TUPE information in their submission.
- 5.4 By the deadline of 25 January 2022, three providers returned a tender: A synopsis of the bids is set out in the Part 2 report.
- 5.5 The evaluation panel comprised of staff from Integrated Commissioning Team and Adult Social Care with support drawn from Legal Services, Procurement and Finance as required. Each member independently evaluated the bids and met on 4th February 2022 to moderate and come to a consensus score for each bid.
- 5.6 The following criteria were assessed during the tender evaluation process:
 - Finance (50%)
 - Quality (50%)
 - Service Delivery (10%)
 - Project Management (10%)
 - Communication (5%)
 - Continuous Improvement (5%)
 - Equality and Diversity (5%)
 - Health and Safety (5%)
 - Social Value (5%)
 - GDPR and Data Handling (5%)

- 5.7 The criteria have been weighted 50% for financial and 50% quality, to reflect the need to secure services with equitable provision towards value for money and providing overall service quality standards by setting a competency threshold in critical areas.
- 5.8 Tenderers were asked to submit a description of their proposals in the form of Method Statements, in order to test tenderers' understanding of service requirements and assess their level of previous experience. These included proposals for assisting the Council in delivering continuous improvements.
- 5.9 The bidders were asked to complete a Standard Selection Questionnaire.
- 5.10 The contract value has been fixed at a maximum of £200,000 per annum and therefore the management and operational structure within the Method Statements was used to secure services that deliver best value for money.
- 5.11 The Method Statements provided by the successful tenderers will form part of the Contract documentation against which their performance will be monitored. An example of the information required by the method statements is given in **Appendix 1**.
- 5.12 The pricing schedule used to assess the financial aspects of the bids are shown in **Appendix 2**.

6. Synopsis and evaluation of the bids received.

- 6.1 Full synopsis of the bids received are set out in section 6 of the Part 2 report.
- 7. Financial Implications
 - 7.1. CreditSafe report is set out in section 15.3 in Part 2 report
 - 7.2. Overall this new contract increases the annual commitment by £29,615 net for this service. Funding to cover this additional cost is subject to annual CCG Better Care Fund allocation, which has been approved for 2022/23. A clause within the contract will be drafted outlining these terms.
 - 7.3. The new Lewisham Advocacy Hub will be funded from within the current budget envelope as follows:

Y1		Yr1.2 and 3	
167,883.00	Contract Value Y1	503,649.00	Contract Value Y1,2 and 3
20,145.96	12% CCG	60,437.88	12% CCG
147,737.04	88% LBL	443,211.12	88% LBL

8. Legal implications

- 8.1. The report seeks approval for the award of the Lewisham Advocacy Hub Contract. Given the sum involved, this is categorised under the Council's Contract Procedure Rules as a Category A contract.
- 8.2. The procurement regulations (Public Contracts Regulations 2015) apply as the Contract is a light touch contract above the former OJEU (now Find a Tender) limits. The requirements of both the Contract Procedure Rules and the procurement regulations are satisfied by an open tender procedure and officers have reported that this was the process followed.

- 8.3 The rationale for considering the winning bid the most economically advantageous for the Council and an analysis of the bids is set out in the part 2 report.
- 8.4 Officers should follow the reporting obligations imposed by the Public Contracts Regulations 2015 following any award by Mayor and Cabinet.
- 8.5 The award is a key decision and therefore needs to be included in the key decision plan.
- 8.6 In taking this decision, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.7 In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; foster good relations between people who share a protected characteristic and those who do not.
- 8.8 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made bearing in mind the issues of relevance and proportionality and understanding the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.9 The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.
- 8.10 The EHRC has issued five guides for public authorities in England giving advice on the equality duty. The 'Essential' guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice.

9. Equalities implications

- 9.1 The Lewisham Advocacy Contract provides services for individuals requiring support to discuss and make decisions regarding the care and support they receive due to their mental health condition. The service is required to abide by all relevant equality legislation. The service specifications for the new services will focus on reducing barriers to person-centred care and support for all underrepresented groups in line with the Equality Act 2010, and have considered the potential impact on all of the nine protected characteristics.
- 9.2 The Council's Equalities objectives are addressed in the contract documentation and were part of the tender evaluation criteria.

10. Climate change and environmental implications

- 10.1 The Council has made a commitment to making the borough carbon neutral by 2030.
- 10.2 The contracts set out in this report will not have any negative impact on the rate of energy consumption or increase of carbon admissions.
- 10.3 Recycling should be proactively promoted within the contracts and will be monitored during scheme visits and will be discussed with staff

11. Crime and disorder implications

- 11.1 The services in this report will have a positive impact on the care and recovery of those with a forensic history.

12. Health and wellbeing implications

- 12.1 The services in this report will have a positive impact on health, mental health, and wellbeing by providing support and advice to individuals who have difficulty engaging in decision-making processes.

13. Social Value implications

- 13.1 The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured.
- 13.2 The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Lewisham pay their staff at a minimum rate equivalent to the LLW rate. Successful contractors will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the service specification and contract documents
- 13.3 The incorporation of Social Value into Lewisham contracts will significantly help the Council to deliver on its strategic corporate and Mayoral priorities and deliver added value for the borough as a whole.

14. Contract Management

- 14.1 In accordance with the Council's contract management framework this contract is a tier 1 contract. Contract Management meetings will be held on a monthly basis and the key performance indicators (KPIs) on the contract management dashboard will be monitored and reported on accordingly.

15. Background papers

- 15.1 Lewisham Advocacy Hub – Permission to Procure Report
<https://councilmeetings.lewisham.gov.uk/documents/s86303/Permission%20to%20Procure%20Lewisham%20Advocacy%20Centre.pdf>
- 15.2 Lewisham Advocacy Hub – Decision Record
<https://councilmeetings.lewisham.gov.uk/documents/s86306/Cover%20Sheet%20Lewisham%20Advocacy%20Hub.pdf>

16. Glossary

CCG	Clinical Commissioning Group
IMHA	Independent Mental Health Advocacy / Advocate

IMCA	Independent Mental Capacity Advocacy / Advocate
CAA	Care Act Advocacy/Advocate
RPR	Relevant Paid Representative
LLW	London Living Wage

17. Report author(s) and contact

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18. Appendices

Appendix 1 – Lewisham Advocacy Hub Method Statements

Appendix 2 – Pricing Schedule