Author/Lead Officer of Report: Andy Hare, Strategic Commissioning Manager

Tel: 0114 2057139

Report of:	Laraine Manley
Report to:	Cabinet
Date of Decision:	*[EMT – 16/8/16]*
Subject:	Sheffield Advocacy Hub

Is this a Key Decision? If Yes, reason Key Decision:-	Yes	X	No	
- Expenditure and/or savings over £500,000		X		
- Affects 2 or more Wards		X		

Which Cabinet Member Portfolio does this relate to?
Health and Social Care

Which Scrutiny and Policy Development Committee does this relate to?
Healthier Communities and Adult Social Care

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	X	No	

If YES, what EIA reference number has it been given? 891

Does the report contain confidential or exempt information?	Yes		No	X

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:- N/A

Purpose of Report:

To seek approval to proceed with the development, procurement and implementation of the “Sheffield Advocacy Hub”.

The Hub will be a single point of contact dealing with all enquiries and referrals for advocacy. It will fulfil SCC’s statutory duty to arrange independent advocacy in a variety of situations, as well as enabling access to ”non-statutory” advocacy to the citizens of Sheffield. The new arrangement will start in April 2017.

Recommendations:

It is recommended

- that from April 2017, Sheffield City Council (SCC) commissions a comprehensive, integrated advocacy service using a “Hub” format as described in this paper. The new service will be known as “The Sheffield Advocacy Hub”

- that the authority to initiate the tender process and award the contract to the most suitable bidder for a period of 5 years is delegated to the Director of Commissioning.

- that the necessary funding is transferred from existing budgets into a new single business unit to facilitate payment processes and forecasting in time for the start of the new arrangements. The total funding over 5 years is estimated to be £4,465,695.

- that the existing advocacy contracts are terminated in line with their notice periods from the date the new arrangement starts.

Background Papers:
NA

<table>
<tr><th colspan="3">Lead Officer to complete:-</th></tr>
<tr><td rowspan="3">1</td><td rowspan="3">I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.</td><td>Finance: Jane Wilby 28/7/16</td></tr>
<tr><td>Legal: Janusz Siodmiak / Nadine Sime 29/7/16</td></tr>
<tr><td>Equalities: Liz Tooke 9/8/16</td></tr>
<tr><td>2</td><td>EMT member who approved submission:</td><td>[Laraine Manley]</td></tr>
<tr><td>3</td><td>Cabinet Member consulted:</td><td>Cate McDonald</td></tr>
<tr><td rowspan="3">4</td><td colspan="2">I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.</td></tr>
<tr><td>Lead Officer Name:
Andy Hare</td><td>Job Title:
Strategic Commissioning Manager</td></tr>
<tr><td colspan="2">Date: EMT – 16/8/16</td></tr>
</table>

1. PROPOSAL

Local authorities must 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.

Advocacy has a key role to play in carrying out this duty. Timely access to good quality advocacy can empower and enable individuals to have their voice heard, thus enhancing their control over assessment processes and expressing meaningful choices around decisions being taken about them at key moments in their lives. Legal duties to arrange advocacy services align with Portfolio priorities to support people to be independent safe and well.

This paper describes the commissioning plan for the future provision of Independent Advocacy – The Sheffield Advocacy Hub. The new arrangement will start in April 2017.

A Hub model procured via a Cost and Volume (Block plus spot) payment model is proposed as the best way forward toward achieving the outcome of having in place a reliable supply of Independent Advocacy to:

a) meet the need for advocacy support of Sheffield citizens, and

b) fulfil SCC's statutory duties under the Care Act and mental health legislation.

Sheffield City Council has contracts with several organisations to deliver advocacy services (see Introduction below)

Two coinciding factors have prompted a review of the contracting arrangements for advocacy:

a) A number of the existing advocacy contracts are ending in March 2017, and

b) There is a new statutory duty to arrange advocacy services which was placed on Local Authorities by the Care Act 2014. This came into effect in April 2015.

Consolidating the current provision into a centralised, integrated contract will result in the following improvements for service users and their carers:

a. A single, identifiable point of contact
b. More effective and easier communication
c. Consistent standards
d. Efficiencies of scale including lower back-office costs

e. Capacity is consolidated; best practice can be shared
f. Better access to non-statutory advocacy,

The main benefits of a “Cost and Volume” approach are:

a. The block element offers some assurance for providers and allows up-front investment in training and development.
b. Allows flexibility for SCC to purchase services above the minimum levels

1.1 Introduction

The proposals in this paper will deliver a simplified and accessible arrangement for advocacy services in a way which will offer opportunities to deliver services in Sheffield which should meet people’s needs and hopefully make the city stand out as a beacon of excellence in this area.

Advocacy services are currently provided by a number of different organisations.

Independent Mental Capacity Advocacy (IMCA)	Sheffield Mental Health Advocacy Service (SMHAS)
Independent Mental Health Advocacy (IMHA)	SMHAS
NHS Complaints Advocacy	Voiceability
Paid Reps (DOLS)	SMHAS
Learning Disability Advocacy (non-statutory)	Cloverleaf

Notes:

- The Mental Capacity Act 2005 (MCA) created the Independent Mental Capacity Advocate (IMCA) service. IMCAs support people who lack capacity and who have no family or friends to support them when serious decisions are taken in their lives; The Relevant Person’s Representative (Paid Rep) role also derives from the MCA 2005.

- The Mental Health Act 2007 requires that arrangements must be made to provide independent Mental Health Advocates (IMHA) for 'qualifying' patients in England;

- All providers are aware of SCC’s intentions and all contracts will be ended in line with contract terms and conditions.

The intention is to replace these arrangements, and to include the new "Care Act" advocacy, with one contract for a service called "The Sheffield Advocacy Hub". The contract will have a five year period with a review break after three.

A number of models were explored but an options appraisal strongly favoured a hub model, funded via a flexible cost and volume contract. This is discussed further in section 5.

This paper will set out in principle how the Sheffield Advocacy Hub will work and then describe how and why the proposals have been arrived at including aspects of consultation, demand forecasting and financial implications.

Precise details of the final model will be developed during the course of the specification writing.

1.2 Operation of the Hub

1.2.1 The Hub will be a single point of contact dealing with all enquiries and referrals for advocacy. It will be accessible to relevant workers as well as individual members of the public.

1.2.2 A triage process will determine the pathway and priority of each referral or enquiry. Requests for "statutory" services or advocacy around pre-agreed situations (e.g. Learning Disability re-provision) will be referred or subcontracted to specialist providers, or delivered by the hub organisation as appropriate and depending on the proposal submitted in the successful tender.

1.2.3 The Hub Provider will be required to facilitate a flow of work which delivers the support required to individuals but also ensures that capacity is available to meet timescales for new referrals. This may require managing expectations of individuals who may want more support than they actually need.

1.2.4 People making requests for non-statutory requests will be offered information and advice about where they can get help or "low level" advocacy.

1.2.5 The Hub will also have a leading role in offering information, training and awareness-raising about the advocacy role and will have a major profile in the city across all health and social organisations including the independent sector.

1.2.6 The Hub provider will be required to provide information regularly to Healthwatch so that they can carry out their role of scrutinising local services (this is particularly relevant for the NHS Complaints Advocacy).

1.2.7 The Hub organisation will have sole responsibility for delivery of the contract and will be required to monitor and assure the quality of any

services it subcontracts and take timely action in the event of performance problems. The Hub will be expected to feedback information to commissioners to inform future strategy and developments.

1.3 Service Quality

The advocacy services currently being delivered under contract are of a good standard. Anecdotally, the overall quality of advocacy provision in Sheffield does not give any cause for concern. After April however, there may be a new provider in place and, even if a current provider(s) wins the contract, there will be some risk to service quality as the new service beds in, TUPE transfers go ahead and the new model is tested. In order to mitigate these risks, a full three month implementation period has been built into the procurement timeline which should allow each party to become familiar with expectations of the others.

Furthermore, a robust monitoring regime will be developed and implemented which, in the first few months of the contract, will be particularly vigilant in ensuring that quality standards are being attained and maintained.

1.4 Outcomes and sustainability

Sheffield City Council needs to develop a solution which delivers all required statutory advocacy and, according to what resources allow, consolidates and develops "non-statutory" advocacy services for Sheffield citizens.

1.4.1 A Sheffield Advocacy Hub, provided as a Cost and Volume model is the best way to ensure that future demand for advocacy services can be met whilst at the same time ensuring the best value for money for the citizens of Sheffield.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 Advocacy frequently crops up as an important issue when talking to people from every service user group. There have been several consultations over the years which tend to highlight similar themes. Views from these consultations have been updated during the current commissioning process.

2.2 Public feeling about advocacy has been expressed vociferously. For example, in early 2014, a commissioned service held with a popular LD provider was changed. This gave rise to public protests around the Council's reputation which brought in local MPs and press; although this did not change the ultimate decision, senior Councillors were required to make public statements about the Council's commitment to supporting and properly resourcing "non-statutory advocacy".[1]

[1] "Anger after Sheffield Charity Axed" – Sheffield Star 20/1/14

2.3 Delivering a high quality, value for money solution is vital to establish and maintain Sheffield citizens' confidence in future arrangements.

3. HAS THERE BEEN ANY CONSULTATION?

People who have used advocacy and their carers have been consulted in a variety of ways in the run up to the procurement. Further triangulation of the issues and concerns is planned over the next few weeks. This has already and will continue to inform the specification development Consultation has been undertaken as follows;

- Collation of output from previous consultations on advocacy
- Meetings with individual service users and local advocacy organisations.
- "Citizen Space" questionnaire on the Sheffield City Council website (45 service user responses)
- Feedback from Service Improvement Forums
- Workshop with potential providers to inform the development of the service specification (12 attendees)
- Discussions with other Local Authorities who are using Hub models are have taken place and a summary of this is included as Appendix 2 of this report.
- <u>Key issues have been:</u>
- Consistency needed in the quality and accessibility of advocacy
- Make the right person available at the right time – delays can be problematic – get rid of long waiting lists
- A central point of access to and information about advocacy.
- Need an advocate answering the phone
- Need specialist advocates who are well-trained and knowledgeable.
- Must be simple to access for individuals and carers
- Clearer recognition of advocacy's role in the Prevention agenda
- Linking funding of advocacy to quality
- Service cuts have increased the need for advocacy

- Advocacy can help to protect the most vulnerable people from abuse.
- Need clear eligibility criteria
- Better publicity/promotion of advocacy is needed

3.1 These outcomes and features will be built into the service specification for the new service.

3.2 The consultation also highlighted the need for a clear approach to managing people's expectations about what the service can realistically deliver. Several comments were about other types of support and advice services.

3.3 As the procurement process moves forward, service user involvement will continue. There will be at least one question in the tender documents which service users or their representatives will write and then evaluate.

3.4 Regular feedback from users of the new service will be sought as part of performance monitoring and quality assurance of the new arrangements

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

Because these advocacy services are mainly statutory duties, they must be properly resourced. A failure to deliver on these duties cannot be defended by an argument citing a lack of resources.

4.1 Financial and Commercial Implications

The major issues around delivery of services such as Independent Mental Capacity Advocate (IMCA) and Paid Reps have been around a dramatic increase in demand caused by changes to case law which has not been matched by a timely increase in market capacity. This has resulted in waiting lists and delays to assessment and discharge processes. There has been a necessary ad hoc response to this which has included negotiating contract volume increases with the incumbent providers.

The uncertainties associated with an estimate of the total cost of the project are provided below. Although the funding over 5 years is estimated to be £4,465,695, factors used to quantify the estimate may change (see 4.1.1).

Projections of costs below are made for the first 3 years of the contract. Discussions with the officers with knowledge of likely future need and providers have led to the figures in Table 1. (see 4.2 for some commentary on this)

The resulting estimated projections for activity in 2017/18 are 9% higher than current activity and a further 8.3% higher in 2018/19. If that trend continues, we can assume for the sake of argument (and acknowledging a

considerable margin of error) that demand will continue to grow, but at a slower rate each year. i.e. 2019/20 increase 7.6%; 2020/21 increase 6.9% etc.

4.1.1 The estimates of future demand has a number of factors which add to uncertainty. For example:

a) The take up of "Care Act" advocacy has been slow nationally and this is reflected in the Sheffield. Estimates indicate that there may eventually be a plateau in referrals at a level 300% higher than at present once the new duty has fully bedded in.
b) The Law Commission is currently reviewing the current arrangements for DOLS[2] . It is still not clear how the law will change as a result, or what effect there might be on referrals.

4.1.2 Table 1 shows estimates of activity and costs over the next three years.

4.1.3 If demand for the existing contracted services is as forecast, and demand for Care Act Advocacy grows by 100% next year, we can forecast a cost to SCC of £757,200 in 2017/18.

[2] Deprivation of Liberty Safeguards

Table 1 Sheffield Advocacy Hub – Demand Projection and budget requirements (see 4.2 for explanation)

Service	Current Activity	2017		2018		2019	
		Hours	Cost[3]	Hours	Cost	Hours	Cost
IMCA	5681	7500	225,000	9000	270,000	10500	315,000
IMHA	3100	3100	93,000	3100	93,000	3100	93,000
Paid Reps	5300	5300	159,000	5300	159,000	5300	159,000
NHS Complaints	-	-[4]	144,000	-	144,000	-	144,000
LD Advocacy	3540	3540	106,200	3805	114,165	4090	122,711
Care Act Advocacy	500	1000[5]	30,000	1500	45,000	2000	60,000
Total			**£757,200**		**£825,165**		**£893,711**

[3] Assumption £30 per hour in line with current market rates. Tender may deliver a lower rate.
[4] NHS Complaints funded on block payment basis
[5] Estimate – see 4.2.5

4.2 Commentary on Table 1

4.2.1 **Independent Mental Capacity Advocate (IMCA)**
This contract as it stands is a three way arrangement between the Sheffield City Council, Rotherham MBC and Doncaster MBC. The joint arrangement will end on 31/1/17. The projections are based purely on Sheffield activity and take into account the waiting lists which have caused some delays to assessment and planning processes.

Changes to case law and practice have driven demand for IMCA way above the levels anticipated even two years ago. Based on the hours completed in 2015-16 of 5681 plus a planned full time employee to be added to the current staffing and devoted to Sheffield Teaching Hospitals, actual hours delivered by the end of this year could reach 7,500 and this has been used as the forecast for year 1 of the new contract.

However, this in itself may not clear the waiting list which currently stands at 50. Average time per case has been previously calculated to be 12 hours, suggesting that those clients currently on the waiting list would require 600 hours, or 0.4 full time employee IMCA for one year.

Trends in levels of referrals

Whilst the level of referrals has fluctuated significantly in Sheffield in 2015-16, it remains the case that the level of referrals for Serious Medical Treatment decisions remains much lower than expected. Referrals from GPs are very low; whilst referrals do come from Sheffield Teaching Hospital, it is unclear as to whether these reflect every case where there is a statutory requirement to involve an IMCA.

There are around 800 Deprivation of Liberty Safeguards cases awaiting assessment by Sheffield City Council, of which a proportion would require IMCA involvement either in the assessment stage, or in supporting family relevant person representatives (RPRs).

Independent Mental Capacity Advocate (IMCA) referrals for hospital discharge and change of accommodation are at the expected levels.

We have some anecdotal evidence that cases are becoming increasingly complex. This is partly due to the aging population, not least because relatives of some older clients are themselves elderly and sometimes inappropriate to consult as a result of their own health conditions. Individual cases are likely to take longer to complete.

Prediction of hours required after April 2017

As the new duties around Care Act advocacy, it is entirely feasible that referrals for IMCA will increase as a result. Advocates in this role are likely to highlight more cases where IMCA involvement is required, where a referral would not necessarily have been made otherwise.

4.2.2 **Independent Mental Health Advocacy (IMHA)**
This is a straightforward projection; activity will continue at current levels over the next three years.

4.2.3 **Paid Representatives**
Current activity is around 5300 hours per year and this is expected to carry forward into the new Hub model. There is a waiting list but no firm projections of changing demand in future can be confidently made.

4.2.4 **NHS Complaints Advocacy**
This contract underpins the statutory duty around Healthwatch. It has a distinct well defined role and has been purchased via a block contract since its inception. Assuming this investment remains committed; some of this money could support the hub function and be part of the block payment.

4.2.5 **Care Act Advocacy**
Care Act Advocacy is currently delivered via interim arrangements with a number of known providers. The service is purchased one case at a time at an agreed hourly rate.

Take up of Care Act advocacy has been much lower than anticipated both locally and nationally and forecasting demand is fraught with potential errors. Current activity equates to around 500 hours a year although there is some anecdotal evidence that referral rates are starting to increase. The figure in the table is one that projects a 100% increase in 2017-18; 50% more in 2018-19 and then a further 33% in 2019-20.

Of all the elements being brought together into the Hub, this presents the greatest difficulty in terms of projecting demand with any degree of confidence.

4.2.6 **Learning Disability (LD) Advocacy**
The current usage is 295 hours per month (averaged over 12 months to 31 March 2016). 71% of this is generic, 25% is deregistration, 3% is right-sizing and 1% is carers.

Commissioners in the LD team believe that the generic service could have been better promoted by the provider and they suggest that the new arrangement should improve this outcome and result in a 15% increase in activity over the next three years. For the purposes of the projections, this has been split evenly across the period. There is obviously a margin of error here.

The de-registration programme will come to an end but any change of provision, accommodation or support may require an advocate. Reviews and reassessments following deregistration will continue until at least May 2017. So the end of the de-registration process does not necessarily signal a reduction in demand.

Planned LD commissioning activity which may provoke a demand for advocacy:

- Re-provision of Sheffield Health and Social Care Trust (SHSCT) Supported Living 2016-2018. 80 people affected
- Sheffield City Council Provider Services review. 2016-18. 45 people affected.
- Respite and Day Services are due for review and re-provision over next year. This is likely to produce a demand for advocacy input although it is difficult to quantify
- Supported Living Framework re-provision by 2017. Up to 109 people affected.

4.3 Payment Model. An options appraisal (see section 5) identified a "Cost and Volume" payment structure whereby an agreed amount is paid to cover infrastructure and an agreed number of hours. Activity over and above this is paid on an hour-by hour basis via invoicing.

4.3.1 The split between the block and spot elements of the payment will be decided once the CCG's contribution has been confirmed. It will be set at a point which allows the provider to set up a robust infrastructure and offers them some security but also offers sufficient flexibility for SCC. For example waiting lists are kept to a minimum but SCC only pay for actual service received.

4.4 Budget Consolidation. There are a number of different Communities budgets from which payments to current providers are drawn. The new arrangement will require a single monthly payment to a single provider and it will therefore be preferable to create a new business unit with sufficient funds transferred from existing business units. Activity against each specific type of advocacy will be routinely recorded so that if any additional funding is required, it can be drawn from the correct budget. Conversely, any underspend can be repatriated to the relevant business unit.

4.5 Savings.
The new model should offer opportunities for savings which will arise from economies of scale e.g. the need for only one management and support structure. This should be reflected in the tender bids. Benchmarking has shown for example that Manchester achieved an hourly rate of £25 during a similar recent tender. If this were achieved in Sheffield, a potential saving to SCC of around £126,000 per year may be possible. However until the actual contract price is known, this cannot be guaranteed.

	Activity in Hours			
	Current	**2017**	**2018**	**2019**
TOTAL	**22,921**	**25,240**	**27,505**	**29,790**
Potential Saving @ £5ph	**£ 114,605**	**£126,200**	**£ 137,525**	**£148,950**

4.6 Legal Implications

4.6.1 The Care Act 2014 provides the legal framework against which care services must be provided. Local authorities have a temporary duty to ensure needs where any business providing the services has failed. The duty does not apply if the business continues to run, but is inefficient.

Local Authorities must provide a universal information and advisory service on care and support. It must be available to its whole population, not only to those already registered within the system. The Council must also help people to benefit from independent financial advice, so they can plan and prepare for the future costs of care.

When buying and arranging services, Local Authorities must consider how they affect individual's wellbeing. The consideration includes supporting and promoting of the wellbeing.

4.6.2 Procurement process should be exercised as stipulated in Public Contracts Regulations 2015. Projects with an estimated value equivalent to or over EUR 750,000 (including extensions of a contract) are subject to "light touch regime". The procurement does require advertisement in the Official Journal of the European Community (OJEC), run a fair and transparent process to select a provider, and to issue a contract award notice.

4.6.3 Notice Period for Current Contracts

Existing contractors will be issued with written notice of termination in accordance with the individual contract terms and conditions.

IMCA	6 months
IMHA	3 months
Paid Representatives	3 months
NHS Complaints	3 months
Learning Disability	3 months

4.7 Equalities Implications

As a Public Authority, we have legal requirements under Section 149 and 158 of the Equality Act 2010. These are often collectively referred to as the 'general duties to promote equality'. To help us meet the general equality duties, we also have specific duties, as set out in the Equality Act 2010 (Specific Duties) Regulations 2011.

We have considered our obligations under this duty in this report and the Council is committed to ensuring that all citizens, particularly those who are most vulnerable, have access to the information and support they need to access services and make decisions about their lives. This is pursuant to the aim of ensuring that all the services we procure are

appropriate for our diverse community.

Notwithstanding our legal responsibilities under the Equality Act, we believe that it is critically important that we understand how the difficult decisions taken by the Council impact on different groups and communities within the city, and that we take action to mitigate any negative impacts that might be highlighted.

Tackling inequality is crucial to increasing fairness and social cohesion, reducing health problems, improving wellbeing and helping people to have independence and control over their lives. It underpins all that we do.

The EIA is recorded on the EIA Sharepoint ref 891

5. ALTERNATIVE OPTIONS CONSIDERED

A range of alternative options for contract and payment structure were considered.

5.1 Contract Structure

Individual contracts for each type of advocacy
Framework contract
Single Provider delivering all services
Hub Model – **PREFERRED OPTION**

5.2 Payment model

Block contract- fixed payments based on forecast activity
Spot purchase - all advocacy bought on a case buy cases basis at a tendered hourly rate
Cost and Volume – (block plus spot) – **PREFERRED OPTION**

6. REASONS FOR RECOMMENDATIONS

6.1 A paper to Communities JLT in 2015 initiated a series of consultations culminating in an options appraisal which strongly recommended that a "Hub" model is developed using a "cost and volume" contract. Details are included in Appendix 1 but the main arguments in favour of the Hub model are:

- A single, easily accessed point of contact
- More effective and easier communication
- Consistent standards
- Economies of scale including lower back-office costs

- Capacity is consolidated; best practice can be shared
- More efficient use of statutory advocacy hours coupled with a more robust system of sign-posting to alternative sources of support.

The main arguments supporting a Cost and Volume approach are:

- The block element offers some assurance for providers and allows up-front investment in training and development.
- Allows flexibility for purchaser above the minimum levels

Appendix 1

Options Appraisal Score Advocacy V 2.5

This page is intentionally left blank