

From: Graham Gibbens, Cabinet Member for Adult Social Care
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To: Adult Social Care Cabinet Committee – 19 January 2018

Subject: **KENT ADVOCACY CONTRACT**

Classification: Unrestricted

Past Pathway of Paper: None

Future Pathway of Paper: None

Electoral Division: All

Summary: This paper provides Cabinet Committee with an update on the commissioning and performance of the Kent Advocacy Contract.

Recommendation: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **COMMENT** on content of this report.

1. Introduction

1.1 This paper provides an update on the commissioning and performance management of the Kent Advocacy Contract.

1.2 The Kent Advocacy Contract is a countywide independent advocacy service which provides all of the Council's statutory and non statutory advocacy for vulnerable people aged 16 years and over.

1.3 What is advocacy?

1.3.1 Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society, are able to:

- Have their voice heard on issues that are important to them
- Defend and safeguard their rights
- Have their views and wishes genuinely considered when decisions are being made about their lives.

1.3.2 Advocacy is a process of supporting and enabling people to:

- Express their views and concerns
- Access information and services
- Defend and promote their rights and responsibilities
- Explore choices and options.

1.3.3 An advocate is someone who provides advocacy support when needed. An advocate might help people access information they need or accompany them to meetings or interviews, in a supportive role. An advocate can also write letters on behalf of, or speak for someone in situations where they don't feel able to speak for themselves. Attached as Appendix 1 are some advocacy case studies that evidence positive the impact advocacy can have in people's lives.

2. Policy Framework

2.1 Local Authorities have a number of statutory duties, established in legislation to ensure people can access advocacy:

- **The Mental Capacity Act 2005** introduced the right to an **Independent Mental Capacity Advocate (IMCA)**, which gives some people who lack capacity a right to receive support to make specific decisions
- **The Mental Health Act 2007** introduced the **Independent Mental Health Advocacy (IMHA)** service to safeguard the rights of people detained under the Act and those on community treatment orders and to enable qualifying users to understand the legal provisions to which they are subject and to exercise their rights to participate in decisions about their care and treatment
- **The Health and Social Care Act 2012** introduced the **Health Complaints Advocacy Service**. Responsibility for commissioning the Health complaints advocacy service transferred from Department of Health (DoH) to local authorities, from 1 April 2013. The aim of this service is to support people who want to make a complaint about a health service, delivered through the NHS or privately sourced
- **The Care Act 2014** introduced a new statutory duty, from April 2015, in provision of **Independent Advocacy** to strengthen the voice of people and their carers going through assessment, care and/or support planning and care review processes, as well as those people who are being supported through the adult safeguarding process.

2.2 Community Advocacy exists to ensure vulnerable adults are supported to understand and explore choices and make their views known when dealing with issues relating to housing, employment and welfare benefits.

2.3 Advocacy promotes equality, social justice, social inclusion and human rights therefore supporting the outcome outlined in; ***Increasing opportunities, Improving outcomes*** which states that we want older and vulnerable residents to be safe and supported with choices to live independently.

3. Report

3.1 Prior to the commissioning of the Kent Advocacy Contract, the Council commissioned advocacy through a series of both contracts and grants which were:

- Delivered via 17 different arrangements
- Not strategically aligned

- Lacking a consistent outcome focussed performance framework
- Underrepresented for some client groups, such as those with autism and physical disabilities

- 3.2 The Care Act placed new advocacy duties on the Local Authority and the natural ending of some of the current advocacy contracts in March 2016 provided an opportunity to transform the advocacy offer and ensure compliance with the new legislation.
- 3.3 The Council used a co-production approach to commissioning the Kent Advocacy Contract. A range of people, including those who use advocacy services, carers and service providers have been involved to help define what advocacy means to people and how it should be delivered. The approach was highlighted on the Think Local Act Personal (TLAP) website as a practical example of how co-production can lead to better commissioning and improved outcomes. The Council was also nominated for a National Advocacy Award for co-production.
- 3.4 Through the co-production work, a Prime Contractor model was developed with a range of sub-contracted partners to deliver a variety of advocacy services across Kent. This meant that small, medium enterprises and the voluntary sector organisations that have built up great skill and experience in this field and are embedded in their local communities could continue to deliver their valuable services.
- 3.5 An open procedure was used and a robust procurement process was conducted assessing suppliers on their financial stability, suitability and experience.
- 3.6 The contract was awarded to seAp (Support, Empower, Advocate and Promote). seAp work collaboratively with a network of delivery partners (Appendix 2) to deliver Kent Advocacy.
- 3.7 The contract commenced on 1 April 2016 for an initial three year period with the option to extend for two one year periods.
- 3.8 When the Kent Advocacy Contract was commissioned community advocacy for people with a learning disability was kept out of scope as its current contract had a year left to run and arrangements were working well. When that contract came to an end the Community Advocacy for People with Learning Disabilities was incorporated into the Kent Advocacy Contract. Advocacy for All who had previously held the contract are part of the Kent Advocacy delivery network so they have continued to provide Community Advocacy for People with Learning Disabilities. This change came into effect on 1 April 2017.
- 3.9 There is now one website and contact number for all advocacy services for adults within Kent with one referral form which makes referring to advocacy very simple.

4. Financial Implications

- 4.1 Bringing together the historic spend on advocacy across grants and contracts the budget was set for £1.49 million. The bid submitted by seAp came in below the available budget at £1.34 million.
- 4.2 Spend for the first year of the contract was £1.04 million.
- 4.3 The budget increased to £1.63 million when the Learning Disability Community Advocacy was incorporated within the contract.
- 4.4 As part of the voluntary and community sector savings requirements, papers were presented to Strategic Commissioning Board in November and December 2017 where £100k savings were committed from the Advocacy budget for 2018/2019 making the budget £1.53 million. The Commissioning Officer is working with the provider to make the necessary contractual changes around this reduction in budget and ensuring there are actions being put in place to mitigate the impact.
- 4.5 There was a significant underspend in the first year of the contract and there is a predicted smaller underspend for year two, with the necessary saving target there will be pressures on the budget for year three. The Commissioning Officer is working closely with Adult Social Care Directors to understand and manage these risks. There is the capacity for local teams to spot purchase statutory advocacy when the spending limit of the Kent Advocacy budget has been reached, but this can only be agreed in exceptional circumstances since there are also pressures on the operational budgets.
- 4.6 The Council is keen to protect community advocacy as although it is non statutory it is preventative and avoids people from reaching crisis point and relieves pressure on statutory advocacy.

5. Legal Implications

- 5.1 There are no legal implications associated with this report.

6. Equality Implications

- 6.1 There are no equality implications associated with this report.

7. Performance

- 7.1 seAp are managing the contract well, the provider and Commissioning Officer are in regular contact and have built a strong contractual relationship enabling any issues to be discussed and resolved in a partnership manner.
- 7.2 Quarterly statistics are provided and quarterly performance meetings are being held. Data is analysed regularly to understand Advocacy demand and performance (Appendix 3). Operational staff attend these meetings to discuss best practice and improve joint working.

- 7.3 There have been changes within the partner organisations. Concerns were raised about the performance of the IMHA and Mental Health Community Advocacy provider in the East of Kent. When these issues were raised with the provider they didn't feel they were able to deliver the service so withdrew on 15th June 2017. Issues were not to do with staff capability this meant that the advocates TUPEd to seAp who took over delivery of the advocacy.
- 7.4 Support 4 Sight who were brought into the partnership for specialist sensory support have withdrawn as of November 2017. The provider was based outside of Kent and the very few referrals received made delivery difficult. Another of the partner organisations, Advocacy for All have staff trained in sensory needs and will take over delivery of specialist sensory advocacy where required.
- 7.5 The smaller organisations who were historically grant funded have found the transition from grant to contract difficult in terms of being paid after service delivery rather than before.
- 7.6 Community Advocacy is being accessed regularly by people for a range of issues but the top five issues are:
- Housing
 - Benefits
 - Access to Services
 - Social Care Needs
 - Child Protection Issues
- 7.7 Ensuring everyone who is eligible for Care Act Advocacy is offered support is an on-going challenge, the provider has been working hard on raising awareness of advocacy and the number of people receiving Care Act Advocacy is increasing.
- 7.8 Demand for Independent Mental Health Advocacy has been much higher than anticipated so we have increased budget provision for this and will work closely with Adult Social Care Directors to manage the risks of exceeding the budget.
- 7.9 seAp use an impact scale to measure the impact Advocacy is having on people's lives. The results show that in the majority of cases people are feeling more able to speak up, listened to and in control of their issue (Appendix 4).

8. Future Developments

- 8.1 The understanding of and therefore use of advocacy continues to grow. The current economic climate and changes particularly in the benefit system mean that advocacy is being utilised more than ever.
- 8.2 The Commissioning Officer is working with the provider to investigate whether the use of volunteers in advocacy could improve efficiency and impact of the current budget.

8.3 A change in the law means that local authorities may need to apply to the Court of Protection on behalf on an adult who lives in a community setting, whose care package is deemed to be a deprivation of liberty and who lacks the capacity to consent to these care and support arrangements. Within the application, the local authority will identify a close friend or relative to be involved in the Court process as a Rule 3A Representative. When the person has no one suitable that could do this, the local authority will need to instruct a paid Rule 3A Representative. We are working with operational colleagues and the advocacy provider to develop this support and to look at how this can be incorporated into the Kent Advocacy Contract once there is enough information around demand, budget and specification.

9. Recommendations

9.1 Recommendations: The Adult Social Care Cabinet Committee is asked to: **CONSIDER** and **COMMENT** on the content of this report.

10. Background Documents

Commissioning of Advocacy Services for Vulnerable Adults -
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=816>

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