

Meeting: Cabinet **Date:** 25 April 2024

Wards affected: All

Report Title: The Provision of Independent Health Complaints Advocacy in Torbay

When does the decision need to be implemented? Immediately, for new contract commencement on 1 July 2024.

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1. Purpose of Report

- 1.1 The purpose of this report is to seek Cabinet approval to award a contract for the delivery of the statutory Independent Health NHS Complaints Advocacy (IHCA) service, so that the new contract can start on the 1 July 2024.
- 1.2 This is to replace the existing contract with our current supplier, which ends on the 30 June 2024.
- 1.3 This follows an open procurement process led by Devon County Council (DCC), for the provision of this service in both Devon and Torbay, together with other statutory adult social care advocacy services that DCC have previously commissioned in partnership with Torbay and South Devon NHS Foundation Trust (TSDFT) and will continue to do so via this joint arrangement.

2. Reason for Proposal and its benefits

- 2.1 The IHCA service supports people who want to make a complaint about NHS funded care or treatment. Each local authority must commission local NHS complaints advocacy, as there are statutory functions that have to be delivered. This falls under the Health and Social Care Act 2012 and is funded out of the Local Reform and Community Voices Grant.

- 2.2 The Adult Social Care Commissioning team (Torbay Council) has until now commissioned and contracted an IHCA service, separate from other adult social care statutory advocacy services currently provided in the local authority area. In Torbay, these other advocacy services are contract managed by TSDFT, via a joint commissioning and contract arrangement led by DCC.
- 2.3 With the Integrated Care System (ICS) for Devon formally coming into being from July 2022, health and care commissioners across Devon, Plymouth and Torbay are increasingly looking at opportunities to jointly commission and contract services where appropriate.
- 2.4 Through discussions with DCC and TSDFT colleagues we indicated an opportunity for the IHCA service for Torbay to be commissioned jointly with them in the future, alongside other statutory adult advocacy services.
- 2.5 Completion of a joint competitive tendering process with DCC and TSDFT has resulted in a recommendation to award a contract (subject to approval by the parallel governance mechanisms in each commissioning organisation) for the provision of the IHCA service, to the preferred supplier named in the accompanying publicly exempt Appendix 1.
- 2.6 The proposed contract will commence on 1 July 2024 for an initial duration of two years and nine months, with the option to extend for a further three periods of 12 months (until 31 March 2030 at the latest). Total indicative budget for the Torbay IHCA element of the contract (for the notional period up until 31 March 2030) is circa £149,000 (£26k pa).

3. Recommendation(s) / Proposed Decision

- 3.1 That the contract for Independent Health NHS Complaints Advocacy be awarded to the preferred supplier named in Exempt Appendix 1 to the submitted report.

Appendices

Exempt Appendix 1 – Preferred Supplier

Supporting Information

1. Introduction

- 1.1 IHCA is a free, independent, and impartial service funded by local authorities (see above). It can guide anyone who wishes to complain about their (or another person's) NHS care and treatment through the process of contacting the appropriate NHS organisation. The NHS complaints advocacy service can support anyone who needs to navigate the complaints process. There are no specific eligibility criteria. Wherever possible, they will facilitate self-advocacy in line with the empowering model of advocacy.
- 1.2 NHS complaints advocates have the training to support people with specific needs or protected characteristics, or where they need to work alongside another organisation. For example, historical service data suggests that people with a mental health condition, learning disability or autistic people, benefit from support to help navigate the NHS complaints process. In addition, many people with a learning disability have greater health needs than the general population.
- 1.3 The IHCA advocacy service will provide high quality issue-based advocacy that encourages a culture of independence and supports people to express their own views, wishes, concerns, have their rights upheld, promote their health and wellbeing, and safeguards vulnerable adults.
- 1.4 The overall purpose of the IHCS service is to:
 - Increase people's knowledge of their rights;
 - Support people to be empowered to make informed choices and decisions about their care and treatment and to take greater control over their lives;
 - Support people to speak for themselves and get their voices heard;
 - Support people to seek resolution of issues requiring advocacy support;
 - Enable people that use advocacy to express what is important to them through employing alternative forms of communication when appropriate; and
 - Represent the views and best interests of individuals when they are unable to do this for themselves.
- 1.5 The service is available to all Torbay residents and covers all NHS services including:
 - Hospital trusts;
 - GP surgeries;
 - Mental health services;
 - Dentists;
 - Ambulance services; and
 - Pharmacies.
- 1.6 By making a complaint people can get answers to questions, and where appropriate an apology or an explanation, and agreed actions to put things right. By using the advocacy service people's experiences can be acknowledged by the NHS, which in turn can bring about improvements in services.

2. Options under consideration

- 2.1 Historically we have commissioned and contracted this service as a single council.
- 2.2 However, given the relatively small size of the current contract and that TSDFT already have an arrangement with DCC for the commissioning and contract management of other statutory advocacy services, it is proposed to include IHCA within this wider service. This is in line with some other contracts within health and care, such as the Local Healthwatch service, where we jointly commission this with other partners within the ICS for Devon.

3. Financial Opportunities and Implications

- 3.1 The proposed contract will commence on 1 July 2024 for an initial duration of two years and nine months, with the option to extend for a further three periods of 12 months (until 31 March 2030 at the latest). Total indicative budget for the Torbay IHCA element of the contract (for the notional period up until 31 March 2030) is circa £149,000 (£26k pa).
- 3.2 Apart from any normal inflation uplifts that may be applied during the lifetime of the contract, the proposal is cost neutral.

4. Legal Implications

- 4.1 Each local authority must commission local NHS complaints advocacy, as there are statutory functions that have to be delivered. This falls under the Health and Social Care Act 2012.

5. Engagement and Consultation

- 5.1 The recommissioned contract was developed in partnership with both commissioners and operational adult social care services managers, considering case studies, performance monitoring data and service user feedback from service users, gathered by regular contract monitoring reports and meetings.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 Via DCC, this provision is being procured under Part 2, Chapter 3, Section 7 of the Public Contracts Regulations 2015 (PCR 2015) – Social and Other Specific Services (also known as ‘the light touch regime’) and this procurement does not follow, in particular, any of the defined procedures of the PCR 2015 (even if there are similarities) but does seek to adhere to the best practice procurement principles of Openness, Transparency, Fairness and Non Discrimination.
- 6.2 A Tender Notice under Light Touch Regime was published on 14th November 2023. A Tender advertisement was also placed in Contracts Finder. The Invitation to Tender was issued via www.supplyingthesouthwest.org.uk on the 14th of November 2023.

- 6.3 This recommissioned contract will maintain existing support which requires maintenance of current employment levels, so the impact will be neutral. Local providers have had the chance to bid for this contract and even if the service had been awarded to a national provider, advocates must be locally based in order to carry out case visits, so the impact on local business will be neutral.

7. Tackling Climate Change

- 7.1 The proposal will have a neutral impact on tackling climate change.

8. Associated Risks

- 8.1 If the proposal is not implemented, we will be in breach of our statutory requirements to ensure the people of Torbay have access to an IHCA service.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			The IHCA service supports all residents of Torbay (or their family/carers/friends) who needs to navigate the NHS complaints process. There are no specific eligibility criteria. As this recommissioning is maintaining existing provision, the impact will be neutral.
People with caring Responsibilities			See above.
People with a disability			See above. Also, historical service data suggests that people with a mental health condition, learning disability or autistic people, benefit from support to help navigate the NHS complaints process. Many people with a learning disability have greater health needs than the general population.
Women or men			See above.
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			See above.
Religion or belief (including lack of belief)			See above.
People who are lesbian, gay or bisexual			See above.

People who are transgendered			See above.
People who are in a marriage or civil partnership			See above.
Women who are pregnant / on maternity leave			See above.
Socio-economic impacts (Including impact on child poverty issues and deprivation)			See above. IHCA advocacy must be offered to all people who are eligible for a service due to the circumstances they find themselves in, and socio-economic factors must not affect the level of support offered because eligibility is purely needs-based and not subject to any financial assessment.
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	See above. Also, by helping people articulate their experiences of the NHS, the IHCA service can contribute to service improvements that will have a positive impact on the general health of the population.		

10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.