ADULT SOCIAL CARE AND HOUSING OVERVIEW AND SCRUTINY PANEL
19 JANUARY 2016

ADVOCACY JOINT COMMISSIONING STRATEGY
Director of Adult Social Care, Health and Housing

1 PURPOSE OF REPORT

1.1 To enable the Panel to comment on the proposed approach to ensuring good quality advocacy services in Bracknell Forest. The draft is not ready for circulation, but can be circulated to members for comment when appropriate if required.

2 RECOMMENDATIONS

2.1 That the Panel consider and comment upon the proposals for the Joint Commissioning Strategy.

3 REASONS FOR THE RECOMMENDATIONS

3.1 To enable the Panel to contribute to the development of advocacy services in Bracknell Forest.

4 SUPPORTING INFORMATION

<u>The Statutory Requirements</u>

4.1 Various changes in legislation over the last 2-3 years have altered the responsibilities for the commissioning and provision of advocacy, and the Council is now responsible for commissioning a range of specialist advocacy services as follows:-

- **Independent Mental Capacity Advocacy (IMCA).** This role is very prescribed under the Mental Capacity Act, and relates to supporting people who do not have capacity to make relevant decisions for themselves in relation to accommodation and care and treatment. The commissioning of IMCA is a requirement under the Mental Capacity Act 2005, and until now has been commissioned in partnership with the other Berkshire Local Authorities. This was because demand was very low at that time, but following changes in the law relating to Deprivation of Liberty (DoL) demand has risen, and it is now more cost effective for LAs to commission this differently (see 4.8 – 4.10 below).

- **Independent Mental Health Advocacy (IMHA).** Access to an IMHA is a statutory right for people detained under most sections of the Mental Health Act, subject to Guardianship or on a Community Treatment Order (CTO). IMHAs are independent of mental health services and can help people get their opinions heard and make sure they know their rights under the law. This is a requirement under the Mental Health Act 1983, and responsibility for commissioning this passed from NHS to LAs with the implementation of the Health and Social Care Act 2012.

- **NHS Complaints Advocacy.** This is to support people who want to make a complaint about an NHS service. It is for anyone who needs support at any point during the NHS complaints process. Previously commissioned by the NHS, Councils have been responsible for commissioning this service in their local area since the Health and Social Care Act 2012 was introduced.

- **Independent Advocacy.** The Care Act 2014 broadened the requirement for independent advocacy to be available to specific groups of people. These are those people who are:-

    - having an assessment of their care and support needs
    - having a carers assessment
    - planning their care and support
    - having a review of their care and support plan
    - supported at the time of a safeguarding enquiry or review

  Previously this was recommended, but is now statutory. This has been available for people with learning disabilities since the implementation of *Valuing People* in 1999, and more widely available since the implementation of the Joint Commissioning Strategy for Advocacy in which covered the years 2012-2015.

4.2 To date, the above responsibilities have been met through various contractual arrangements, some of which were inherited from NHS organisations, or have been commissioned jointly with other LAs (see IMCA above). In order to rationalise our approach, arrangements have been made for the current contracts to end at the same time, so that all services can be commissioned through one tendering process. See “Tendering and Contracting for the Services” below.

The Vision

4.3 Bracknell Forest Council’s vision is that advocacy services will:

- Be free, independent and available to the people who are eligible for them
- Be high quality
- Provide value for money
- Help people to be involved in their care, support and treatment so that they can be as independent as possible
- Help people to speak up and make choices and therefore keep safe from harm

The Process

4.4 As with all commissioning strategies, the commissioning intentions in the advocacy strategy are derived from a combination of legislation / national policy and best practice, and local needs and experience. Local need and experience is informed by analysis of demographic information, current and past take-up of services and consultation with relevant people. This consultation is available to anybody wishing to contribute, but with particular emphasis on:

- people who have used the relevant advocacy services,
- people who could have used the services but have not,

- people who are or may be newly eligible for services because of changing legislation, or changes in their own needs and circumstances.

4.5 The current consultation ended on 7th January 2016. As this is the same day as the submission date for this paper, it is not possible to include the analysis of the results, but some indications from the analysis will be available at the meeting.

The Scope

4.6 The structure of the strategy will follow the usual format, and will cover the following:-

- National and local context, which will include legislative requirements, along with local demand analysis
- Research and practice
- Information on current services
- Outcomes of the consultation
- Local priorities

4.7 It is anticipated that the local priorities will cover more than the detail of the specific services that will be set up following the tendering process. These priorities will include:-

- Training for staff
- Information /communication strategy for people who may need advocacy
- Information /communication strategy for providers of care and support.
- Improvements to contract monitoring and the evaluation of the impact of advocacy
- An emphasis on cooperation between different advocacy services
- Increased focus on driving up quality, for example through promoting the use of recognised national standards such as the advocacy Quality Performance Mark.

Tendering and Contracting for Services

4.8 It is unfortunate that the timing of the development of the commissioning strategy, has not dovetailed perfectly with the timing of the tendering process for the services. However, the outcomes of the consultation will be available in time to inform the detail of the service specifications, and in the meanwhile, much of the preparation work has been undertaken.

4.9 The services will be commissioned in 4 "lots" and providers may choose to tender for one or more lots. This is because three of the services are very specialist in nature (IMHA, IMCA and to an extent the NHS complaints advocacy service), and will require specialist skills and knowledge. Many organisations have specialised in one or two forms of advocacy, and there may be few - if any - who have the specialist knowledge and skills required for all 4 advocacy services. This approach enables the Council to ensure that we secure the best services, whilst retaining the opportunity for potential economies of scale that we would expect if one provider offers more than one type of advocacy.

4.10 A "market shaping" event was held on 10 December 2015 to inform potential providers of our intentions, and of the range of services that will be commissioned. The questions raised at this will help to inform clear and detailed service specifications.

Background Papers

Care and Support Statutory Guidance (Care Act 2014), Chapter 7

Mental Capacity Act 2005 - Code of Practice

Mental Health Act 1983

Health and Social Care Act 2012

Joint Commissioning Strategy for Advocacy 2012-2015

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