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Tender

## 197 - Integrated Advocacy

Wigan Council

F02: Contract notice

Notice identifier: 2021/S 000-001087

Procurement identifier (OCID): ocds-h6vhtk-028b95

Published 19 January 2021, 3:32pm

### Section I: Contracting authority

#### I.1) Name and addresses

Wigan Council

Corporate Procurement, Resources Directorate, Wigan Council, Wigan Town Hall, Library Street,

Wigan

WN1 1YN

#### Contact

Mr. Mark Holden

#### Email

[m.holden@wigan.gov.uk](mailto:m.holden@wigan.gov.uk)

#### Telephone

+44 1942486260

#### Country

United Kingdom

**NUTS code**

UKD3 - Greater Manchester

**Internet address(es)**

Main address

<http://www.wigan.gov.uk/>

Buyer's address

<http://www.wigan.gov.uk/>

**I.3) Communication**

The procurement documents are available for unrestricted and full direct access, free of charge, at

<https://procontract.due-north.com/Advert/Index?advertId=cf48eb2d-3f57-eb11-8106-005056b64545>

Additional information can be obtained from the above-mentioned address

Tenders or requests to participate must be submitted electronically via

<https://procontract.due-north.com/Advert/Index?advertId=cf48eb2d-3f57-eb11-8106-005056b64545>

**I.4) Type of the contracting authority**

Regional or local Agency/Office

**I.5) Main activity**

General public services

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

197 - Integrated Advocacy

Reference number

DN519097

#### **II.1.2) Main CPV code**

- 98000000 - Other community, social and personal services
  - AA01 - Metal

#### **II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

Wigan Council is seeking dynamic partners to deliver statutory and non-statutory advocacy services across the Wigan Borough. The providers must be able to demonstrate innovative practice and be creative in their approach to delivering a wide variety of services. The providers will work collaboratively with partners who specialise in delivering specific areas of advocacy including Independent Mental Capacity Advocacy (IMCA), Independent Mental Health Advocacy (IMHA), Relevant Persons Representative (RPR), Deprivation of Liberty Safeguards (DoLS), Care Act and General Advocacy.

The specific areas of advocacy have been divided into the following Lots:

LOT 1 Independent Mental Capacity Advocacy (IMCA), Independent Mental Health Advocacy (IMHA), Mental Health Advocate and Relevant Persons Representative (RPR).

LOT 2 Care Act Advocacy.

LOT 3 Children's Advocacy.

#### **II.1.5) Estimated total value**

Value excluding VAT: £1,900,000

#### **II.1.6) Information about lots**

This contract is divided into lots: Yes

Tenders may be submitted for maximum number of lots  
3

Maximum number of lots that may be awarded to one tenderer: 3

### **II.2) Description**

#### **II.2.1) Title**

LOT 1 - Independent Mental Capacity Advocacy (IMCA), Independent Mental Health Advocacy (IMHA), Mental Health Advocate and Relevant Persons Representative (RPR).

Lot No

1

#### **II.2.2) Additional CPV code(s)**

- 98000000 - Other community, social and personal services

#### **II.2.3) Place of performance**

NUTS codes

- UKD3 - Greater Manchester

#### **II.2.4) Description of the procurement**

Lot 1

Independent Mental Capacity Advocacy (IMCA), Independent Mental Health Advocacy (IMHA), Mental Health Advocate and Relevant Persons Representative (RPR).

This specification relates to the provision of the following services/roles which support people under the Mental Capacity Act (MCA) who are lacking mental capacity:

- Independent Mental Health Advocate (IMCA)
- Independent Mental Health Advocate (IMHA)

- Mental Health Advocacy
- Support to Relevant Person Representative (RPR)

The Mental Capacity Act (MCA) has been in force since 2007 and applies to England and Wales. The primary purpose of the MCA is to promote and safeguard decision-making within a legal framework. It does this in two ways:

- by empowering people to make decisions for themselves wherever possible, and by protecting people who lack capacity by providing a flexible framework that places individuals at the heart of the decision-making process
- by allowing people to plan ahead for a time in the future when they might lack the capacity, for any number of reasons.

### Deprivation of Liberty Safeguards (DoLs)

The Mental Capacity Act 2005 (MCA) was amended by the Mental Health Act 2007. The 2007 Act makes a number of amendments to the MCA, the main change is to provide for procedures to authorise the deprivation of liberty of a Service User in a hospital or care home who lacks capacity to consent to being there.

The safeguards focus on some of the most vulnerable people in our society: those who for their own safety and in their best interests need to be accommodated under care and treatment regimes that may have the effect of depriving them of their liberty, but who lack the capacity to consent to the regime.

The MCA principles of supporting a Service User to make a decision when possible and acting at all times in the Service User's best interests and in the least restrictive manner, will apply to all decision-making in operating the procedures. The introduction of the MCA Deprivation of Liberty Safeguards (MCA DOLS) was in response to the 2004 European Court of Human Rights judgment (HL v UK (Application No.45508/99)) (the "Bournewood judgment") involving an autistic man who was kept at Bournewood Hospital by doctors against the wishes of his carers. The European Court of Human Rights found that admission to and retention in hospital of HL under the common law of necessity amounted to a breach of Article 5(1) ECHR (deprivation of liberty) and of Article 5(4) (right to have lawfulness of detention reviewed by a court).

### Liberty Protection Safeguards (LiPS)

In July 2018, the government published a Mental Capacity (Amendment) Bill, which passed into law in May 2019. It replaces the Deprivation of Liberty Safeguards (DoLS) with a scheme known as the Liberty Protection Safeguards (although the term is not used in the Bill itself).

Key features of the Liberty Protection Safeguards (LPS) include:

- In line with the Law Commission's suggestion they start at 16 years old. There is no statutory definition of a deprivation of liberty beyond that in the Cheshire West and Surrey Supreme Court judgement of March 2014 – the 'acid test'
- Deprivations of liberty have to be authorised in advance by the 'responsible body'.
- For NHS hospitals, the responsible body will be the 'hospital manager'.
- For arrangements under Continuing Health Care outside of a hospital, the 'responsible body' will be their local CCG (or Health Board in Wales).
- In all other cases – such as in care homes, supported living schemes etc. (including for self-funders), and private hospitals, the responsible body will be the local authority.
- For the responsible body to authorise any deprivation of liberty, it needs to be clear that:
  - The person lacks the capacity to consent to the care arrangements
  - The person has a mental disorder
  - The arrangements are necessary to prevent harm to the cared-for person, and proportionate to the likelihood and seriousness of that harm.
- In order to determine this, the responsible body must consult with the person and others, to understand what the person's wishes and feelings about the arrangements are.
- An individual from the responsible body, but not someone directly involved in the care and support of the person subject to the care arrangements, must conclude if the arrangements meet the three criteria above (lack of capacity; mental disorder; necessity and proportionality).
- Where it is clear, or reasonably suspected, that the person objects to the care arrangements, then a more thorough review of the case must be carried out by an Approved Mental Capacity Professional.
- Where there is a potential deprivation of liberty in a care home, the Act allows care home managers – if the local authority felt it was appropriate - lead on the assessments of capacity, and the judgment of necessity and proportionality, and pass their findings to the local authority as the responsible body. This aspect of the Act has generated some negative comment, with people feeling that it might lead to insufficient independent scrutiny of the proposed care arrangements.

- Safeguards once a deprivation is authorised include regular reviews by the responsible body and the right to an appropriate person or an IMCA to represent a person and protect their interests.
- As under DoLS, a deprivation can be for a maximum of one year initially. Under LPS, this can be renewed initially for one year, but subsequent to that for up to three years.
- Again, as under DoLS, the Court of Protection will oversee any disputes or appeals.

The new Act also broadens the scope to treat people, and deprive them of their liberty, in a medical emergency, without gaining prior authorisation.

The target date for implementation is 1 April 2022. Prior to then, a revised MCA Code of Practice will be published, which, the sector trusts, will bring clarity to some outstanding questions about how LPS will work in practice.

#### **II.2.5) Award criteria**

Price is not the only award criterion and all criteria are stated only in the procurement documents

#### **II.2.6) Estimated value**

Value excluding VAT: £1,046,600

#### **II.2.7) Duration of the contract, framework agreement or dynamic purchasing system**

Duration in months

60

This contract is subject to renewal

No

#### **II.2.10) Information about variants**

Variants will be accepted: No

#### **II.2.11) Information about options**

Options: No

#### **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

## **II.2) Description**

### **II.2.1) Title**

Care Act Advocacy

Lot No

2

### **II.2.2) Additional CPV code(s)**

- 98000000 - Other community, social and personal services

### **II.2.3) Place of performance**

NUTS codes

- UKD3 - Greater Manchester

### **II.2.4) Description of the procurement**

LOT 2 Care Act Advocacy.

As a requirement of The Care Act 2014, this service requires Wigan Council to arrange an independent Care Act Advocate for all adults that require one, as part of their own assessment, care planning, care reviews and to those in their role as carers. This duty also applies to children who are approaching the transition to adult care and support, when a child's needs assessment is carried out, and when a young carer's assessment is undertaken.

Wigan Council must arrange an independent care act advocate to facilitate the involvement of a person in their assessment, in the preparation of their care and support plan and in the review of their care plan, as well as in safeguarding enquiries and Safeguarding Adults Review (SAR) if two conditions are met; that if an independent care act advocate were not provided then the person would have substantial difficulty in being fully involved in these processes and; there is no appropriate individual available to support and represent the person's wishes who is not paid or professionally engaged in providing care or treatment to the person or their carer.

There is also a separate duty to arrange an independent care act advocate for adults who are subject to a safeguarding enquiry or Safeguarding Adults Review (SAR).

## **II.2.5) Award criteria**

Price is not the only award criterion and all criteria are stated only in the procurement documents

## **II.2.6) Estimated value**

Value excluding VAT: £675,000

## **II.2.7) Duration of the contract, framework agreement or dynamic purchasing system**

Duration in months

60

This contract is subject to renewal

No

## **II.2.10) Information about variants**

Variants will be accepted: No

## **II.2.11) Information about options**

Options: No

## **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

# **II.2) Description**

## **II.2.1) Title**

Children's Advocacy

Lot No

3

## **II.2.2) Additional CPV code(s)**

- 85000000 - Health and social work services

- 98000000 - Other community, social and personal services

### **II.2.3) Place of performance**

NUTS codes

- UKD3 - Greater Manchester

### **II.2.4) Description of the procurement**

Lot 3 - Children's Advocacy

The Service will offer advocacy to children and young people within the Wigan Borough up to the age of 18 years who are looked after by the local authority, on a Protection Plan.

The Service will include direct consultation with children and young people and other significant people such as parents, carers, and professionals. The Provider will also be expected to attend Children Looked After (CLA) Reviews, Core Group Meetings, Safeguarding Meetings and any other relevant meetings as required with the child or young person; and liaising with professionals to achieve better outcomes for the child or young person based on their feelings and wishes.

The Provider will also be expected to deliver training where a need has been identified, to social workers, Independent Review Officers (IRO's), SPOA staff, Foster Carers, Independent Fostering Agencies, and other relevant partners. The training will clarify where referrals for advocacy are appropriate, raising awareness of the pathways, children and parents' rights, and issues around consent, as well as improving the understanding of advocacy generally.

### **II.2.5) Award criteria**

Price is not the only award criterion and all criteria are stated only in the procurement documents

### **II.2.6) Estimated value**

Value excluding VAT: £191,500

### **II.2.7) Duration of the contract, framework agreement or dynamic purchasing system**

Duration in months

60

This contract is subject to renewal

No

#### **II.2.10) Information about variants**

Variants will be accepted: No

#### **II.2.11) Information about options**

Options: No

#### **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

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### **Section IV. Procedure**

#### **IV.1) Description**

##### **IV.1.1) Type of procedure**

Open procedure

##### **IV.1.8) Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: Yes

#### **IV.2) Administrative information**

##### **IV.2.2) Time limit for receipt of tenders or requests to participate**

Date

19 February 2021

Local time

12:00pm

##### **IV.2.4) Languages in which tenders or requests to participate may be submitted**

English

##### **IV.2.6) Minimum time frame during which the tenderer must maintain the tender**

Duration in months: 60 (from the date stated for receipt of tender)

#### **IV.2.7) Conditions for opening of tenders**

Date

19 February 2021

Local time

12:00pm

Place

Wigan Town Hall, Library Street, Wigan, WN1 1YN.

Information about authorised persons and opening procedure

Head of Procurement - within 48 hrs of tender submission.

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## **Section VI. Complementary information**

### **VI.1) Information about recurrence**

This is a recurrent procurement: No

### **VI.4) Procedures for review**

#### **VI.4.1) Review body**

Royal Courts of Justice

Strand, Holborn,

London

WC2A 2LL

Country

United Kingdom

#### **VI.4.2) Body responsible for mediation procedures**

Wigan Council

Corporate Contracts and Assets, Resources Directorate, Wigan Council, Wigan Town Hall  
Library Street,

Wigan

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