

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	15 th October 2013
Report of:	Brenda Smith, Director of Adult Social Care and Independent Living
Subject/Title:	Universal Information and Advice Services (Forward Plan Ref: 13/14-25)
Portfolio Holder:	Cllr. Janet Clowes - Health and Adult Care

1.0 Report Summary

- 1.1 In 2012-13 following a strategic review all contracts for adult services with Voluntary, Community and Faith Sector (VCFS) providers were retendered to focus on Prevention and Early Intervention. Services which were low in cost and could clearly evidence that they either promoted independence leading to avoidance or delay in entering the social care system or reduce or maintained current levels of support were prioritised for funding.
- 1.2 Due to the introduction of the Welfare Reform Act 2012 on 1 April 2013 and the unknown impact of these changes, Universal Information and Advice Services were excluded from this tender exercise. Following external legal advice, Cabinet agreed to directly Grant Aid Cheshire East Citizens Advice Bureau and Cheshire East Citizens Advice Bureau North for twelve months from 1 April 2013 – 31 March 2014, without competition. This has ensured the continued provision of universal, free, independent, confidential and impartial advice and support on debt, welfare benefit and housing related matters across Cheshire East.
- 1.3 Prevention and Early Intervention Services are now due to be retendered for a three year period from 1 April 2014 – 31 March 2017 (further details are contained within a separate Cabinet Report). The Welfare Reform Act 2012 will not be fully implemented until April 2017- people on relevant existing benefits will move to Universal Credit when contacted by the Department for Work and Pensions or when there is a significant change in their circumstances. The impact of these changes therefore remains unknown and the Council's requirements for universal information and advice services cannot be accurately specified to inform the current formal tendering process.
- 1.4 The use of competitive grant has also been considered. Due to the inability to accurately specify the Council's requirements for universal information and advice services this approach is also problematic and in the absence an overarching Council policy/framework by which grant

funding should be allocated this option could result in an increased risk of challenge to the council from unsuccessful bidders.

- 1.5 The Council has the powers to award a grant to the CAB to support the organisation using its general power of competence in Section 1 of the Localism Act 2011. It is therefore proposed that Grant Aid for Universal Information and Advice Services is continued on a time limited basis to address this specific set of circumstances and that the service will be tendered when this is determined to be appropriate by Cabinet.

2.0 Recommendations

- 2.1 To agree to continue to Grant Aid Cheshire East Citizens Advice Bureau and Cheshire East Citizens Advice Bureau North for the provision of universal information and advice services across Cheshire East without competition for a period of 12 months from 1 April 2014 to 31 March 2015.

3.0 Reasons for Recommendations

- 3.1 The Welfare Reform Act 2012 legislates for the biggest change to the welfare system for over 60 years. The Act provides for the introduction of a 'Universal Credit' to replace a range of existing means-tested benefits and tax credits for people of working age, starting from April 2013.

Key areas of the Act include the:

- Introduction of Personal Independence Payments to replace the current Disability Living Allowance
 - Restriction of Housing Benefit entitlement for social housing tenants whose accommodation is larger than they need
 - Uprating of Local Housing Allowance rates by the Consumer Price Index
 - Amending the forthcoming statutory child maintenance scheme
 - Limiting the payment of contributory Employment and Support Allowance to a 12-month period cap the total amount of benefit that can be claimed
- 3.2 Since its inception in 2009 Cheshire East Council has grant funded Citizens Advice Bureau North and Cheshire East Citizens Advice Bureau to provide independent, confidential and impartial advice and support on debt, welfare benefit and housing related matters to the residents of Cheshire East. These services are delivered from dedicated premises in Macclesfield and Crewe, at satellite locations throughout the Cheshire East, by telephone and on line. Moreover the services provided are universal - access to services is not restricted by client group or eligibility criteria and they are free at the point of access.

- 3.3 As referenced in paragraph 1.1 in 2012-13, following a strategic review, it was recommended that all grants for adult services with Voluntary, Community and Faith Sector (VCFS) providers be withdrawn and services tendered to focus on Early Intervention and Prevention. A public consultation on the proposals established that whilst the majority of respondents were supportive of the proposed changes there was some concern about the inclusion of Universal Information and Advice Services in a tender process focused on adult services. The Equality Impact Assessment also highlighted that the Council must be mindful of the impact of its decision on service users that have a protected characteristic detailed in the Equalities Act 2010.
- 3.4 Cabinet therefore agreed that whilst it supported the principle of retendering services to focus on Prevention and Early Intervention, due to the introduction of the Welfare Reform Act 2012 on 1 April 2013 and the unknown impact of these changes, Universal Information and Advice Services were to be excluded from this tender exercise. Following external legal advice, Cabinet agreed to directly Grant Aid Cheshire East Citizens Advice Bureau and Cheshire East Citizens Advice Bureau North for twelve months from 1 April 2013 – 31 March 2014, without competition.
- 3.5 Six months on and the full impact of the Welfare Reform Act 2012 is still unknown. Prevention and Early Intervention Services are now due to be retendered for a three year period from 1 April 2014 – 31 March 2017 but it is not possible to accurately specify the council's requirements for Universal Information and Advice Services to inform a formal tendering process at this time.
- 3.6 Failure to commission Universal Information and Advice Services would result in no services of this nature being available to residents of Cheshire East from 1 April 2014. Whilst this could be considered a loss to all residents of Cheshire East this is likely to have a particularly negative impact on service users that have a protected characteristic detailed in the Equalities Act 2010.
- 3.7 It should also be noted that any reduction in income to the Citizens Advice Bureau from the decommissioning of this service would take effect at the same time as the withdrawal of Legal Aid and Learning Skills Council funding by central government. The cumulative financial impact could result in the closure of both CABs from April 2014 resulting in the loss of investment in previous infrastructure as approved by the Chief Officer.
- 3.8 An absence of Universal Information and Advice Services at a time of fundamental and wide reaching changes to the whole benefits system will inevitably result in increased pressure upon the Council to compensate for this reduction in capacity and volume, with implications relating to the need for the provision of additional services to residents and the corresponding cost implications.

3.9 In the absence of a satisfactory contractual remedy, the provision of Grant Aid is a mechanism through which Cheshire East Council can ensure the continued provision of universal information and advice services during the financial year 2014/15.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 As outlined earlier in the paper Cheshire East Council are committed to the move from grants to contracts for services. Clearly the continuation of Grant Aid for this service is at odds with the decision to retender all other services. This is a time limited measure, however, to address a specific set of circumstances which circumstances will be revisited when as this grant award comes to end in March 2015. It is expected that this service will also be tendered when this is determined appropriate or that a grant will be awarded in accordance with the criteria put in place by any subsequent overarching grant policy.

7.0 Financial Implications

7.1 The current funding for the provision of these services is £250,442. This spend is already accounted for through the Strategic Commissioning budget.

7.2 This funding is split between Cheshire East Citizens Advice Bureau North (£63,994) and Cheshire East Citizens Advice Bureau (£186,448).

8.0 Legal Implications

8.1 In deciding whether to directly award a grant Cabinet must consider the facts and circumstances in which a direct grant award is being proposed as set out in paragraph 3 (as opposed to awarding a grant following a competitive bidding process or going out to tender) together with the identified risks (paragraph 9) and be satisfied that in making a direct award the Council's is meeting its public law duties.

8.2 The Council has the powers to award a grant to the CAB to support the organisation using its general power of competence in Section 1 of the Localism Act 2011. In exercising the power the Council must satisfy its public law duties. In essence this means that in making the decision the Council must have taken into account only relevant considerations, followed procedural requirements, acted for proper motives and not acted unreasonably.

- 8.3 The Council must also be mindful of public sector equality duties and the impact of its decision on service users that have a protected characteristic detailed in the Equalities Act 2010.
- 8.4 There is currently no overarching Council policy/framework by which grant funding should be allocated and in principle a direct grant award can be made. However, it is also noted that the Council is moving to a commissioning model and that direct grant awards without competition are considered to be an exception.
- 8.5 In awarding a grant the Council cannot exhibit the same amount of control over the organisation as is commensurate with a contract. Essentially the terms of the grant should set out with what the purpose of the grant is for and only claim claw back provisions in the case of the grant funding being used for other purposes or otherwise improperly. The Council will not be able to assess the quality of the services that are being provided to those requiring welfare advice and determine to withdraw grant funding on that basis (except at the end of the period of the grant funding).

9.0 Risk Management

- 9.1 Whilst the Council has the powers to award a grant to the CAB to support the organisation using its general power of competence in Section 1 of the Localism Act 2011, there is currently no overarching Council policy/framework to assist in determining the mechanism by which grant funding should be allocated and there remains therefore a risk that this decision may be challenged by other providers.
- 9.2 In deciding whether to directly award a grant the Council must therefore consider the facts and circumstances in which a direct grant award is being proposed as set out in paragraph 3 together with the identified risks and be satisfied that in making a direct award the Council's is meeting its public law duties.

10.0 Background and Options

- 10.1 In the absence of a satisfactory contractual remedy, the provision of Grant Aid is a mechanism through which Cheshire East Council can ensure the continued provision of Universal Information and Advice Services during the financial year 2014/15.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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