

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting:	10 December 2012
Report of:	Lorraine Butcher, Director Children, Families and Adults
Subject/Title:	Universal Information and Advice Services
Portfolio Holder:	Councillor Janet Clowes

1.0 Report Summary

- 1.1 Cheshire East Adults Children and Families Service have undertaken a strategic review of its funding arrangements for the Voluntary, Community and Faith Sector (VCFS).
- 1.2 The current funding arrangements with the VCFS pre date Local Government Reorganisation (LGR) in April 2009. These legacy agreements have been extended over a number of years and remain largely unchanged.
- 1.3 In light of the severe financial pressures on the adult social care budget it was agreed that all Voluntary, Community and Faith services will receive 95% of their original 2011/12 allocation.
- 1.4 One of the priority recommendations emerging from this ongoing review is the need to move from the current system of grants to the VCFS to contracts for services.
- 1.5 Services are therefore being retendered to focus on Prevention and Early Intervention. Services which are low in cost and can clearly evidence that they either promote independence leading to avoidance or delay in entering the social care system or reduce or maintain current levels of support will be prioritised for funding. The new contracts, which will commence from 1 April 2013, will require providers to deliver measurable and clearly specified outcomes.
- 1.6 Permission has been granted by the Corporate Management Team, in the form of a Record of Non Compliance/Breach of Finance and Contract Procedure Rules to extend the current contracts until 31st March 2013 to allow the procurement exercise to be undertaken.
- 1.7 Currently Cheshire East Council grant fund Cheshire East Citizens Advice Bureau and Cheshire East Citizens Advice Bureau North for the provision of universal, free, independent, confidential and impartial

advice, advice and support across Cheshire East. This includes advice on debt, welfare benefit and housing related matters.

- 1.8 Due to the introduction of the Welfare Reform Act 2012 on 1 April 2013 and the as yet unknown impact of these changes we are unable to accurately specify the council's requirements for universal information and advice services to inform a formal tendering process at this time.

2.0 Decision Requested

- 2.1 To agree to Grant Aid the provision of universal information and advice services across Cheshire East.
- 2.2 To note that this will be a competitive process that will invite suitably qualified organisations to apply.

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 As the impact of these changes is currently unknown 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.
- 3.3 A failure to provide this service at this 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.

- 3.4 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 2013 resulting in the loss of investment in previous infrastructure as approved by the Chief Officer.
- 3.5 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 2013/14.

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 the current system of grants to the VCFS 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 and it is expected that this service will also be tendered when this is determined appropriate.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The current funding for the provision of these services is £63,994 (Cheshire East Citizens Advice Bureau North) and £186,448 (Cheshire East Citizens Advice Bureau).
- 7.2 This spend is already accounted for through the Strategic Commissioning budget.
- 7.3 As the services provided are universal rather than specific to Children, Families and Adults further consideration will need to be given to where this funding is held within the council going forward.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Adults Services sought a delegated decision that the arrangements with the CAB be extended for a twelve month period without a competitive tendering process being undertaken as required by the Council's Contract Procedure Rules. Rule E24 states as follows;

Provided that a proposed contract award complies with national and EU legislation and any other Finance and Contract Procedure Rule and subject to the Chief Officer or his designated representative keeping a record of the reasons, reported annually to the Director of Finance and Business, then the competition requirements may not apply to:

- The Purchase of a product required being compatible with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure as approved by the Chief Officer

Awarding a one year contract in these circumstance without competition will breach the Consolidated Directive on Public Procurement 2004 and the Public Contracts Regulations 2006 that provide that contracts for services with a value of above £173 934 must comply with competition requirements and tendering procedures. It is therefore not possible for the Council to grant a waiver to its own internal rules. As a part B services the contract would not be subject to all the tendering requirements, however there would need to be an appropriate form of advertisement and notification for the opportunity. Third parties have a right to take court action against the Council if they suffer financial loss as a result of the Council's failure to comply with the Regulations. For the reasons set out in section 3 of this report Adult Services feels that it cannot tender this contract at this time.

- 8.2 In general terms the Council can award grant funding for the provision of the services to the public. There is no comparable procedure to the procurement regime governing the administration of grants. An award of a grant would be subject to public law requirements and the Council's own internal guidance on administration of grants. As there are other organisations that will be interested in applying for the grant the availability should be advertised. What the Council cannot do is to attempt to exhibit the same amount of control over the organisation as is commensurate with a contract. Essentially the terms of the grant should be 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. What the Council will not be able to do with a grant is 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 Of the options available the provision of Grant Aid for the continuation of universal information and advice services is the most effective in terms of minimising the potential risk to the Council.
- 9.2 It should be noted, however, that it is not possible to impose the same conditions of funding under a grant as a contract.
- 9.3 If we advertising the grant, then we cannot guarantee CAB will get the grant.
- 9.4 If there are other providers in the market, which we believe there are, we will have to be able to justify giving a grant and not undertaking a procurement exercise.

10.0 Background and Options

- 10.1 There is no option available within the contract to extend the current arrangements with the current service providers – Cheshire East Citizens Advice Bureau and Cheshire East Citizens Advice Bureau North.
- 10.2 A request to CMT for a Delegated Decision to extend the existing contracts for a twelve month period, without undertaking a competitive tendering process has been refused, on the basis that this would contravene European Procurement Law and may be subject to legal challenge.

11.0 Access to Information

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

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