

Report from the West Sussex Joint Scrutiny Task and Finish Group

August 2012

Community Legal Advice Services Contract

Executive Summary

The Joint Scrutiny Task and Finish Group (TFG) was established to consider the future arrangements for the provision of generalist legal advice services to residents of West Sussex. The current arrangements consist of a single contract for the provision of legal advice to the public across West Sussex, with all Districts, Boroughs and the County Council contributing to the contract. The TFG considered evidence about the quality and nature of the current service and forthcoming changes which will impact on demand for advice services.

The TFG was impressed by the quality of the current service and the evidence of service improvement through the first two years of the three-year contract. TFG members came to a consensus about the most suitable arrangements that should be made to ensure that appropriate advice services continue to be provided through the anticipated period of instability and recommendations were agreed unanimously by those present.

The recommendations of the TFG are presented for consideration by the relevant decision makers within each partner local authority, via the relevant overview and scrutiny committees in those authorities. Once this process is concluded, West Sussex County Council (WSSC) will take action to implement the decision and make the appropriate contract arrangements on behalf of all the authorities. Given that the existing contract is due to expire at the end of March 2013, it is important that all participating authorities notify WSSC of their decision by mid November 2012.

Recommendations

1. The existing contract with the West Sussex Citizens Advice Bureau Consortium for the provision of generalist advice should be extended for a further two years at the current level of funding, with West Sussex County Council letting the contract on behalf of all existing partner authorities.
2. It is not appropriate to step in to fund any element of the contract currently funded by the Legal Services Commission.
3. The negotiation of the extension should include the following elements -
 - a. revision of the existing conditions to seek greater flexibility of service provision and improved productivity, in the light of the significant reduction in central government funding of legal aid
 - b. preservation of the existing facility for each District and Borough Council to influence the nature of provision within their area according to local need
 - c. continuation of the local provider presence in 11 locations throughout the County
 - d. appropriate confidentiality assurances regarding individual client information, but an assumption that all other information about the contract

- and service should be open and available for scrutiny
4. The priority client groups should remain as in the original contract –
 - a. those under 25
 - b. those experiencing or at risk of domestic abuse
 - c. those at imminent risk of losing home
 5. The period of the extension should be used to
 - a. enable all partner authorities to decide on the nature of their future involvement in the provision of generalist advice services beyond March 2015
 - b. analyse the effect of changes likely to impact on levels of demand and the nature of the service required to enable a revised specification to be developed for service beyond March 2015
 - c. gather customer satisfaction information about the existing arrangements
 - d. explore the potential of the market and options for a range of providers to contribute to the future tendering process, including the potential to explore other ways of delivering community legal advice services provision
 6. A Joint Scrutiny Task and Finish Group should be convened (or the existing group reconvened) to examine the revised specification and approach to tendering proposed for the arrangements to be put in place for the period from April 2015, with sufficient time allowed for detailed scrutiny in advance of the executive decision making and tendering processes.

1. Context

- 1.1 The Task and Finish Group (TFG) was established by the West Sussex Joint Scrutiny Steering Group with the following aim:

To review and consider the performance and outcomes of the current arrangements for generalist legal advice, to consider the needs of the county and to contribute to the development of a specification for a sustainable future generalist legal advice service for the residents of West Sussex.

- 1.2 The TFG comprised 8 elected members – one from each District and Borough Council within the County and one from the County Council. The TFG met twice – in June and July 2012 - to consider evidence and develop recommendations.
- 1.3 In accordance with the agreed protocol on Joint Scrutiny in West Sussex, the TFG recommendations will be presented to the relevant executive decision makers within each partner local authority via the relevant overview and scrutiny committees in those authorities. A copy of the report will also be sent to the Joint Scrutiny Steering Group.
- 1.4 West Sussex County Council (WSSCC) has offered to let the contract on behalf of all participating authorities (the primary contract holder for the existing contract is the Legal Services Commission) with officers from all authorities taking part in negotiation of the extension to the contract. The current officer forum for overseeing this contract is the Funding Liaison Board. In order for this process to be completed within the remaining period of the contract, it is essential that all participating partners confirm to WSSCC that they wish to continue to be part of the agreement by mid November 2012.

2. Background

- 2.1 The Community Legal Advice Services Contract was commissioned in 2009 through a joint commissioning process involving the Legal Services Commission (LSC), WSCC and all of the West Sussex Districts and Boroughs. The Community Legal Advice Service (CLAS) delivers both specialist and generalist advice as an integrated service. The three year contract to deliver the service was won by a consortium of the West Sussex Citizens Advice Bureaux (WSCABx) and Shelter, and commenced on 1st April 2010. The current contract is due to expire at the end of March 2013, but does contain a two year extension clause.
- 2.2 The Legal Aid Sentencing and Punishment of Offenders Act significantly reduces the categories of specialist advice within the scope of Legal Aid funding. As a consequence the LSC has indicated that they will not be in a position to jointly tender services at the end of this contract in March 2012. It is unclear what the impact will be on the demand for generalist advice when the specialist advice element of the contract ceases in March 2013.
- 2.3 There are a number of impending changes to benefits and other support payments which are likely to have an impact on the level and nature of demand for advice services from April 2013. These include
- the impact of reduced access to Legal Aid, with fewer areas of social welfare law being eligible
 - the localisation of support for Council Tax (which will allow local authorities to set up local schemes of support for Council Tax, replacing Council Tax Benefit, whilst making savings equivalent to 10% of the Council Tax Benefit bill)
 - the introduction of Universal Credit (the replacement for income-based Jobseeker's Allowance, income-based Employment and Support Allowance, Income Support, Child Tax Credits, Working Tax Credits, and Housing Benefit)
 - the broader impact of the current recession and levels of unemployment
- 2.4 The exact nature of the impact of the above changes on the level of demand for advice services is as yet unclear, and may be subject to considerable instability during the initial stages of implementation of for example the new benefits arrangements.

3. Evidence considered

- 3.1 The TFG considered a range of evidence relating to
- the nature of the existing contract
 - nature of the services provided under the contract, with specific focus on the generalist element funded by West Sussex local authorities
 - contract management process undertaken by officers
 - performance of the current provider in terms of volume, quality and financial management
 - quality of the governance arrangements of the current provider
 - customer feedback on the performance of the current provider

- options for the future of the contract beyond March 2013
- revision of the original needs assessment to underpin any future contract

3.2 Witnesses who provided evidence included

- Officers from the Funding Board – on which all authorities are represented and which meets quarterly to monitor delivery of the existing contract
- The Vice Chair of the WSCABx Board
- The Chief Executive of Central South Sussex CAB, who is also the CAB Contract Manager for CLAS
- Network Development Manager from national CAB
- Principal Procurement Manager, WSCC
- Southern Regional Manager, Shelter

3.3 TFG members are grateful to the witnesses for their time and expertise.

3.4 The TFG was provided with written evidence in advance of each meeting and explored this in more depth with the assistance of the witnesses in the meetings.

4. Contract options

4.1 The TFG was informed that there are two options open with regard to the future of the CLAS contract from April 2013. The TFG explored the benefits and challenges of the options in the light of evidence they had received about the existing contract and service.

4.2 The first option is to extend the existing contract for up to two years as set out in the existing contract. This has the benefit of allowing time for the nature of demand for generalist advice to be considered in the light of the changes outlined in paragraph 2.3. It also has the benefit of enabling each local authority to develop a detailed needs assessment relating to the population within their area, to develop more robust customer feedback and to explore the potential of other ways of delivering advice services.

4.3 The second option is to commence a competitive procurement process for the service. Given the time required for such a process – in the order of 9 months - it would be necessary to negotiate a short extension period to the existing contract to allow for the process to be undertaken. The TFG was presented with no advantages for this option, given that it would require the procurement process to be undertaken at a time of great uncertainty over longer term levels of demand, making development of a clear specification for the service challenging. The comparative cost (in officer time) of a full procurement process – in the order of £20,000 to £25,000 - compared to that for an extension that would cost around £5,000 was an additional factor considered by the TFG.

4.4 The TFG did consider the potential advantages of testing the market at this stage. However, when the current contract was tendered there was only one submission, from the current provider, and members were informed that the current market does not appear substantially different to that when the contract was originally let.

5. Conclusions and Recommendations

5.1 The TFG considered all the evidence it had received and came to a clear view on recommendations it wished to make to the executive decision makers in partner authorities.

5.2 The key evidence which informed the view of the TFG was –

- significant service improvements made by the existing provider during the current contract,
- feedback provided on the high quality of governance arrangements for the CAB Consortium within West Sussex,
- although relatively limited information was available, the feedback from those who have used the service was positive,
- the benefits of continuing to work with the existing trusted provider through a period of considerable instability,
- the need to spend sufficient time developing a revised specification for the service in the light of both forthcoming changes to benefits which are likely to impact on demand and the need to work with the market to encourage development of a wider range of providers,
- the comparative costs of an extension to the contract versus a full tender process – in the light of the other evidence

5.3 The following recommendations were agreed by the TFG for consideration by the relevant executive decision makers within each partner local authority. In accordance with the Joint Scrutiny Protocol, these recommendations must be forwarded to decision makers via the relevant overview and scrutiny committees in those authorities.

Recommendations

1. The existing contract with the West Sussex Citizens Advice Bureau Consortium for the provision of generalist advice should be extended for a further two years at the current level of funding, with West Sussex County Council letting the contract on behalf of partner authorities
2. It is not appropriate to step in to fund any element of the contract currently funded by the Legal Services Commission.
3. The negotiation of the extension should include
 - a. revision of the existing conditions to seek greater flexibility of service provision and improved productivity, in the light of the significant reduction in central government funding of legal aid
 - b. preservation of the existing facility for each District and Borough Council to influence the nature of provision within their area according to local need
 - c. continuation of the local provider presence in 11 locations throughout the County
 - d. appropriate confidentiality assurances regarding individual client information, but an assumption that all other information about the contract and service should be open and available for scrutiny
4. The priority client groups should remain as in the original contract –
 - a. Those under 25
 - b. Those experiencing or at risk of domestic abuse
 - c. Those at imminent risk of losing home

5. The period of the extension should be used to
 - a. enable all partner authorities to decide on the nature of their future involvement in the provision of generalist advice services beyond March 2015
 - b. analyse the effect of changes likely to impact on levels of demand and the nature of the service required to enable a revised specification to be developed for service beyond March 2015
 - c. gather customer satisfaction information about the existing arrangements
 - d. explore the potential of the market and options for a range of providers to contribute to the future tendering process, including the potential to explore other ways of delivering community legal advice services provision
6. A Joint Scrutiny Task and Finish Group should be convened (or the existing group reconvened) to examine the revised specification and approach to tendering proposed for the arrangements to be put in place for the period from April 2015, with sufficient time allowed for detailed scrutiny in advance of the executive decision making and tendering processes.

6. Decision making process

- 6.1 When each participating local authority decision maker has considered the recommendations of the TFG and come to its own decision, West Sussex County Council will take responsibility for the contracting process, on behalf of those authorities who agree to continue to be part of the joint arrangement. Officers on the Funding Liaison Board will agree the detailed arrangements and specification for the service.

7. Resource Implications and Value for Money

- 7.1 In making the recommendations set out in paragraph 5, the TFG considered the options available and the financial constraints facing all local authorities at this time. Members of the TFG considered that existing levels of funding are appropriate and that the proposal to extend the contract rather than enter into a full competitive tender process represented the best value for money at this time.

8. TFG Membership

Clare Apel, Chichester District Council (Chairman)
Terry Chapman, Arun District Council
Brian Donnelly, Horsham District Council
Mark Dunn, West Sussex County Council
Emma Evans, Adur District Council
Jacqui Landriani, Mid Sussex District Council
Liam Marshall-Ashcough, Crawley Borough Council
Vino Vinojan, Worthing Borough Council

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Background Papers

Agenda and supporting papers for the Community Legal Advice Services Task and Finish Group meetings on:

18 June 2012

18 July 2012