

## Case Study Six: Mr J – Tender process for new provider

### Summary

The contract for the provider who runs Mr J's supported living accommodation was due for renewal. After the contract fell through with the preferred supplier, there was an open tender process in which eight providers were deemed suitable. An IMCA ensured the selection of the provider from the shortlist was done by the families of the residents with support from the Council's commissioning unit. This was to make sure that the needs of residents were prioritised over cost.

### Background

Mr J is a 55-year-old gentleman with a learning disability. He is also an insulin-dependent diabetic and suffers from epilepsy. Mr J resides within supported living accommodation provided by X in Leicestershire. He has lived at the supported living accommodation since 1994. Prior to this, the accommodation was a health provision. X took over the scheme in 2010 and the majority of the staff TUPE'd over. X's contract was due for renewal in January 2014 and the local authority had offered the service out to tender. X chose not to re-tender as it did not think it was financially viable. Y tendered for the contract and was awarded it. As part of the re-provision of services, all the residents required a care review. Family had been informed of the proposed changes due to take effect in 2014. Whilst it could be argued that there is no best interests decision as such, a change of provider could have a significant impact on Mr J and therefore it was felt appropriate that he be represented by an IMCA.

### IMCA report

*'The decision-maker wanted Mr J to have independent representation with regard to his care review and to meet with the new provider. It was agreed that I would meet Mr J and speak with the present provider with regard to the current level of support and Mr J's needs as he is unable to verbally express his views and wishes. Timescales were agreed regarding the submission of my report. I identified after completing my case work and submitting my IMCA report, that a copy of my report should go to the planning and procurement unit who were responsible for identifying the new provider, to ensure that they too applied the best interests process in accordance with the Mental Capacity Act. I discussed this with the decision-maker who agreed to forward a copy of my report to their planning and procurement unit. Initially there were no options, there was only one provider who tendered for the new contract and planning and procurement were prepared to offer it them. Following the withdrawal of this provider, there were no options other than the current providers' contract be extended and the contract re-offered out for tender. After the contract costs were adjusted and offered out, several providers (approximately 27) tendered for it. Out of those, planning and procurement ensured that the providers had the credentials to meet the contractual needs of the service, this is rigorous testing, in line with their commissioning policy. The list of 27 providers was shortlisted to eight. The eight were to be reduced to three and a meeting would be held with the three remaining. Family and IMCA meet all eight providers.'*

### Barriers which were overcome

Previous re-tendering exercises were completed solely by the local authority and family/advocates were not consulted. The contract is usually awarded to the provider

who is most cost effective, rather than looking at what is in the best interests of the tenants. After a meeting with the family members of the other tenants, the social worker and the assistant market development officer (AMDO), it was agreed that the current tendering process did not sit in line with the principles of the Mental Capacity Act. The issues raised were taken to the head of service by the AMDA and it was agreed that, as all eight providers met the criteria to provide the service, the determining of which one of these was in the best interests of the tenants could be decided by the family and IMCA. As this was a very new way of approaching this it was not known how in practice this would work. Whilst the family and IMCA were invited to choose which provider they felt was in the best interests of the tenants, the ultimate responsibility for this decision remained with the local authority and it was agreed if the family members and IMCA could not agree on a provider the local authority would make the final decision. It was agreed by the AMDO that after the provider has been selected, all the providers would be notified by letter, and the family were advised to say that they were not in a position to discuss the matter and to tell the current provider to expect a letter notifying them of the outcome. The process for shortlisting and selecting a provider was agreed with the local authority, families and IMCA service. All providers were invited to give a 10-minute presentation on how they would meet the needs of residents.

### **Outcome**

The most suitable provider was chosen by the families and IMCA using the procurement process detailed above. The IMCA involvement led to the local authority's planning and commissioning unit to look at how they commission services. In this case as a direct result of the IMCA's involvement and questioning how their current practice for commissioning services does not take into account what is in a person's best interests, they re-looked at this and were willing to take a new approach as described in this case study.