

Brighton & Hove City Council

Children, Families & Schools Committee

Agenda Item 50

Subject: Residential Child Care Placements

Date of meeting: 22 January 2024

Report of: Executive Director Families, Children & Learning

Contact Officer: Name: Steve Dillow
Tel: 07395 282757
Email: steve.dillow@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 This report seeks approval for the procurement of a framework agreement or Dynamic Purchasing System (DPS), and the award of the framework agreement or DPS and individual placement agreements, for residential child care placements in the independent sector.
- 1.2 Children, Families & Schools Committee has the appropriate authority to agree to the recommendations. Further authorisation from Strategy, Finance & City Regeneration Committee is not required as the cost of the proposed services fall within the agreed directorate budgets.

2. Recommendations

- 2.1 That Committee delegates authority to the Executive Director of Families, Children & Learning to:
 - (i) take all necessary steps to procure and award a framework agreement or DPS, including subsequent extensions, with Southampton City Council (SCC) and consortium partners, for the provision of residential child care placements in the independent sector commencing on or after 1 October 2024, and
 - (ii) procure and award call off contracts and individual placement agreements from the framework agreement or DPS outlined at 2.1(i) above.

3. Context and background information

Summary of the current service provision

- 3.1 Legislation requires local authorities to secure sufficient accommodation for Children in Care (CiC), that meets their needs, and is within the local area wherever this is reasonably practicable. The Council acts as the corporate

parent for CiC and has strong controls for safeguarding to manage the welfare of vulnerable children.

- 3.2 The current number of the Council’s residential child care placements for children under age 18 in the independent sector and those directly managed by the Council are shown below:

Figures at October 2023:

Independent Sector Placements		Council Placements	
Independent Residential Children’s Homes	35	In-house Residential Children’s Homes	10

The in-house placement numbers include one full time placement for a child under age 18 and nine short break respite placements from a group of 25 children.

- 3.3 There’s a need to make residential child care placements in the independent sector and a compliant means of procuring these services is required.
- 3.4 The Council’s budgets for 2023-24 for external residential child care placements, including children’s disability placements, total £10.87m.

Current procurement arrangements

- 3.5 The Council is party to a joint framework agreement for residential child care led by Southampton City Council, and comprising a total of 21 local authorities across the south of England, which commenced on 1 October 2018 and expires on 30 September 2024. The framework has re-opened for new applications each year during its life. This framework has been our primary initial source of seeking residential child care placements since 2018. The framework may be extended for a short period of time to help manage the re-procurement process, subject to legal advice that this is permissible under the Public Contracts Regulations 2015.
- 3.6 The Council is also a named contracting authority on the West Sussex County Council (WSSCC) Dynamic Purchasing System for social care placements.

Tender process for new framework agreement or DPS

- 3.7 In order to comply with the Public Contracts Regulations 2015 and the Council’s internal Contract Standing Orders, a formal tendering process must take place to procure the new framework agreement or DPS. This service falls under the Light Touch Regime of the Public Contracts Regulations 2015, providing local authorities with some flexibility in their approach to procuring contracts, whilst following the principles of transparency and equal treatment.
- 3.8 In order to meet the deadline for contract commencement on the cessation of the current framework agreement, a procurement timetable has been

drawn up. A comprehensive specification is being drafted to accompany the Invitation to Tender. This will be based on the National Contract, which is a set of default standard terms used by providers and local authorities, and varied according to local need, including using the NEF Outcomes Framework and adding requirements on social value.

- 3.9 The tender documents will be developed between the consortium members. This will include the framework or DPS length. Preliminary discussions between the current consortium partners have indicated a likely initial period of 4 years with further optional 2 years plus 2 years extensions.

Risk

- 3.10 The Competition and Markets Authority (CMA) undertook a study into the Children's Social Care market in 2021 and outlined concerns in relation to placement availability and price and with provider profit and risk. There has been a reduction in the number of children's homes on the current framework over the last year, with a number of providers citing staffing recruitment and retention challenges.
- 3.11 Inflation has been high, and this has placed pressure on placement costs, particularly for off-framework placements.
- 3.12 The Nationwide Association of Fostering Providers reports that their members receive on average 100 referrals for every foster care vacancy. This balance of supply and demand is thought to be similar in the residential child care sector. Although the Council's CiC numbers have reduced over the last year, this is not reflective nationally. In England, the number of Children in Care increased by 9500 in between 2017 and 2022. The market has not increased provision accordingly.

National Care Review

- 3.13 The Independent Review of Children's Social Care by Josh MacAlister was published in May 2022. The review includes a recommendation to establish of up to 20 Regional Care Cooperatives, owned and managed by local authorities, which would be responsible for the commissioning and management of all children's placements.

4. Analysis and consideration of alternative options

- 4.1 An alternative to a regional framework or DPS would be for the Council to procure these services on its own. Tendering as a sole local authority reduces the potential for sharing costs and exercising leverage and influence in the provider market. The Council does not have the level of placement numbers to be of interest to the majority of the provider market and providers are likely to choose not to apply to join a Council only framework or DPS, which will negatively impact on placement costs.
- 4.2 The Council periodically reviews the estimated cost of running more children's homes directly. This process will continue but on each previous

occasion the estimated cost of setting up and running these services in-house has been judged to be more expensive than external provision.

- 4.3 The Council is party to the West Sussex DPS for social care placements but is not currently using this for residential child care. This is due to the low number of providers and children's homes on the DPS in comparison to the SCC framework.
- 4.4 The Institute of Public Care (IPC), Oxford Brookes University published a research report in July 2015 titled 'The efficacy and sustainability of consortia commissioning of looked after children's services'. This included a recommendation to promote continuing development and greater effectiveness of consortia commissioning.
- 4.5 Managing demand for CiC placements has the greatest impact on value for money but this needs to be managed safely through care planning. Early Help interventions and planned step-down arrangements contribute to these plans.

5. Community engagement and consultation

- 5.1 WSCC received project funding from the DfE Innovation Programme in 2015-16. The project, which the Council participated in, included developing a new Outcomes Framework for social care placements.
- 5.2 The Outcomes Framework was developed by the New Economic Foundation (NEF) and drafted through co-production with local authorities, providers, parent/carer representatives and Children in Care Council representatives. This Outcomes Framework sets out outcomes for children/young people in care and is now used by a number of local authorities across the country, including the Council. This Outcomes Framework is currently used by the SCC consortium.

6. Conclusion

- 6.1 It is necessary to re-tender these services as the current framework agreement with SCC for residential child care placements will expire on 30 September 2024. In order to benefit from collaborative working with regional partners, and to build in sufficient time to carry out a fair and transparent procurement process, the process must commence as soon as possible.
- 6.2 Regional joint commissioning and procurement is considered to provide the best placement choice and value for money for these services. The current consortium comprises 21 local authorities across the south of England. A number of other local authorities have had preliminary discussions about joining the consortium.

7. Financial implications

- 7.1 The 2023/24 budget allocation for externally procured residential home placements is £10.875m, to fund 41 children placed in residential home accommodation.
- 7.2 The Framework agreement or DPS have no financial value in themselves but allows the Council to commission residential placements as efficiently and effectively as possible in a very competitive market environment.

Name of finance officer consulted: David Ellis Date consulted: 06/10/23

8. Legal implications

- 8.1 The Children, Families & Schools Committee is the appropriate committee for the recommendations set out in paragraph 2 above in accordance with Part 4 of the Council's constitution.
- 8.2 The Council has a statutory duty under 22(G) of the Children Act 1989 to secure sufficient accommodation for looked after children. Joint procurement with other contracting authorities is permitted under regulation 38 (1) of the Public Contract Regulations. The framework agreement or DPS must be procured and awarded in accordance with the Public Contract Regulations 2015, including regulations 74-76 which apply specifically to services which fall within the Light Touch Regime, which are over the threshold of £663,540.00.

Name of lawyer consulted: Sian Stevens Date consulted : 20/10/23

9. Equalities implications

- 9.1 The Council has a responsibility to promote access to appropriate educational provision for all in accordance with legislation including the Equality Act 2010.

10. Sustainability implications

- 10.1 Subject to placement availability, placements for Children in Care will be made as closely to networks of family and friends and the child/young person's current school, where this is safe to do so, and in the child/young person's best interests.
- 10.2 We will advocate for a question on providers' sustainability policies and initiatives to be included in the Selection Questionnaire as part of the tender and for a key performance indicator in the contract to monitor performance against providers' stated actions.

11. Other Implications

Social Value and procurement implications

- 11.1 The Public Services (Social Value) Act 2012 requires that public bodies tendering for services above the threshold to consider how what is proposed

to be procured might improve the economic, social and environmental well-being of the relevant area. Social Value will form part of the tender evaluation process in accordance with Council policy. This will be addressed by SCC and the consortium within the tender documents.

Crime & disorder implications:

- 11.2 The Outcomes Framework has a number of measures under basic needs (safety and health), functioning (control, relationships and achievement), personal resources (resilience, self-esteem and emotional intelligence) and preparation for adulthood (participation, independence, inclusion and wellbeing) that contribute to the prevention of crime and disorder.

Public health implications:

- 11.3 Improving health and wellbeing are two of the key objectives within the Outcomes Framework.

Supporting Documentation

1. Background documents

1. CMA) study into the Children's Social Care Market report. The final report published in March 2022 can be found at: [Children's social care market study final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/Childrens-social-care-market-study-final-report-2022.pdf).
2. 'The Independent Review of Children's Social Care' by Josh Macalister was published in May 2022 and can be found at: [Final Report - The Independent Review of Children's Social Care \(childrensocialcare.independent-review.uk\)](https://childrensocialcare.independent-review.uk/)
3. Institute of Public Care (IPC), Oxford Brookes University 'The efficacy and sustainability of consortia commissioning of looked after children's services' Research report July 2015. The published report can be found at: [The Efficacy and Sustainability of Consortia... | IPC Brookes](#).