

North Somerset Council

REPORT TO THE FULL COUNCIL

DATE OF MEETING: 24 SEPTEMBER 2019

SUBJECT OF REPORT: COMMISSIONING PLAN APPROVAL - NATIONAL RESIDENTIAL CONTRACT FOR THE PLACEMENT OF CHILDREN IN CHILDREN'S HOMES

TOWN OR PARISH: ALL

OFFICER/MEMBER PRESENTING: EXECUTIVE MEMBER FOR CHILDREN AND YOUNG PEOPLE'S SERVICES

KEY DECISION: N/A

REASON:

This is a decision of Council not an Executive decision.

RECOMMENDATIONS

- i. That this commissioning plan is approved.
- ii. To delegate approval of the Inter Authority Partnership Agreement (IAA) and associated costs to the Executive Member, as it has not yet been drafted by the lead authority.
- iii. To delegate approval of the Contract Award to the Executive Member, as the Executive meetings scheduled for next year do not tie in with the proposed timeline for recommissioning.¹

1. SUMMARY OF REPORT

The report details the services currently being purchased under the South West Framework for the National Residential Contract for the Placement of Children in Children's Homes, which is ending on 31 March 2020. North Somerset Council (NSC) is part of the South West Commissioners Group (SWCG), which is made up of 6 Local Authorities (LAs) for this recommissioning and the group oversee the contract management arrangements of the providers on the framework utilising a collaborative and joint approach. The procurement of the new framework will be led by South Gloucestershire Council with the 5 other LAs in the SWCG supporting with the procurement process and evaluation of applications from providers to go on the framework.

¹ NB. the evaluations are due to finish after the February meeting and the contract is due to go live on 1 April 2020, before the next Executive Meeting. A retrospective decision, which is the other option, is not suitable. Please see appendices for the commissioning timeline.

The plan is to tender a contract in the region of 5 years on a dynamic purchasing system² (DPS), or open framework.

2. POLICY

This decision relates to all the Council's overarching aims set out in the Corporate Plan:

- A. Prosperity and Opportunity
- B. Health and Wellbeing
- C. Quality Places

These outcomes can be achieved by primarily 'Enabling Young People to Fulfil their Potential', but there are elements of this contract which will also 'Drive Growth in the North Somerset Economy and Local Jobs', in accordance with our Child Transformation Board priorities (see A. Prosperity and Opportunity).

Further, it can be the case that having a good supply of Children's Residential Homes can enable NSC to 'Commission or Provide Quality Health and Care Services, which Deliver Dignity, Safety and Choice' which 'Support Families to Give Their Children the Best Start in Life' (see B. Health and Wellbeing).

Similarly, this contract can be said to 'Empower People to Contribute to their Community and Communities to Provide their Own Solutions'. This can be in terms of both business setting up in the area to meet the needs of our local children and young people (C&YP) who may find that residential homes best meet their needs, but also in terms of residents being active members of their community (see C. Quality Places).

The People and Communities Directorate Statement 2019/20 has set out to, under Health and Wellbeing:

- Improve outcomes for children and young people on the edge of care and those that are Looked After.
- Support families and children to improve their own lives, enabling equality of opportunity for all.

In relation to Enablers, the following priorities have also been identified which are relevant to this contract:

- Deliver the children's social care transformation programme to ensure successful delivery of savings and other benefits.
- Effective financial management including robust and comprehensive budget and savings plan monitoring (council-wide commitment).

3. DETAILS

NSC have been part of the current framework for the National Residential Contract for the Placement of Children in Children's Homes since 2016 (it is due to end on 31 March 2020),

² The terms DPS (Dynamic Purchasing System) and Framework are often used interchangeably but for the purposes of this decision shall be taken to mean the same thing i.e. providers are signed up to the DPS/Framework and NSC 'call off', or purchase, from it. Please note the terms DPS and framework are being used outside of their formal procurement rules meanings, as the subject matter of the contract is a light touch service under the EU rules and thus not covered by the detailed prescribed full rules. The terminology that is being used for this Decision is describing something that is not covered by that legal terminology.

along with other LAs in the regional SWCG, who meet quarterly and discuss topical issues, such as safeguarding and home closures. The main advantage of being part of a regional commissioners' group is that NSC, as a small LA, have increased bargaining/buying power, which allows NSC to build better relationships with providers whilst being protected by the provisions of the National Contract.

There are 48 providers on the current framework and in the past financial year (2018/2019) NSC have placed 26 different children and young people (C&YP) across 20 providers, at a cost of £3.2million – this equates to 19 full year equivalent placements at an average annual unit cost of c. £169,000. At the time of writing this report, NSC have 16 C&YP placed across 13 different providers, with the full year spend forecast at c. £3.2m. The preference is that placements are made locally for C&YP to maintain links with their families, if appropriate, and access local services such as social work teams and CAMHS³. Engagement work is being carried out and will be strengthened with local providers of Children's Residential Homes in Banwell, Langford and Portishead (who are all on the DPS/Framework), as well as meetings with new providers who may be interested in setting up residential homes and other types of accommodation for C&YP. Even so, it is sometimes appropriate to be able to place out of county if the C&YP is experiencing Child Sexual Exploitation (CSE) or to get away from county lines and trafficking⁴.

The benefits to this framework are being able to 'call off' dependent upon the need of the C&YP, whether they require a therapeutic placement, a solo home, or have complex and challenging needs that cannot be met in other provisions more locally for example. As aforementioned, it is sometimes more appropriate to place a C&YP outside of the North Somerset area due to assessed risk of harm from others, their own vulnerabilities to Child Sexual Exploitation or county line activities etc.

Ofsted have recently deemed that a disproportionate amount of children's homes in the south west are rated as 'requires improvement' or 'inadequate' which further perpetuates a lack of placement choice locally. Ofsted are working with providers to 'get to good' if they are not meeting the standard and to drive up improvements. It is a statutory duty for NSC to have 'sufficient'⁵ placements for those who are CLA and the new framework will allow providers who requires improvement to be allowed onto the framework, in contrast to the current arrangements. NSC's Children's Placement Team (CPT) complete desktop quality assurance checks prior to placements being commissioned and throughout the duration of the young person's placement, quarterly and on an ad hoc basis. Within the CPT there is a dedicated officer for monitoring standards and service outcomes for young people placed in residential care homes and this function is further supported by the Children's Contracts and Commissioning Officer and the SWCG more widely.

The current Market Position Statement (MPS 2015⁶) details that:

5.6.6 Overall education attainment in North Somerset schools is good and improving. Educational outcomes for Children Looked After (CLA) are particularly poor and they are significantly more likely than their peers to leave school with fewer or no qualifications.

³ Child and Adolescent Mental Health Services.

⁴ <https://nsomerset.sharepoint.com/sites/the-source/news-events/Modern%20slavery%20and%20CSE>

⁵ Sufficiency Statutory guidance on securing sufficient accommodation for looked after children, March 2010 <https://www.gov.uk/government/publications/securing-sufficient-accommodation-for-looked-after-children>

⁶ A new MPS is being collated.

5.6.7 The number of CLA as at 31st March 2015 was 234 a rate of 56 per 10,000 aged 0 to 17 yrs.

5.6.8 Children who enter Residential Care in North Somerset, are typically aged 14 to 16 who have experienced significant trauma in their lives and have difficulties in coping with mainstream education.

5.6.9 Placing in residential care poses additional challenges for commissioners such as:

- proximity to the young person's home
- facilitating contact with friends and family
- specialist interventions
- continuing and promoting education
- distance from social care colleagues

5.6.14 Needs

Residential Children's Homes which are:

- Local to North Somerset or in easy travelling distance
- Specialist provision to support young people with emotional and behavioural difficulties and self-harm.
- Activity based short intervention programmes (6 to 8 weeks)
- Able to care for children who:
 - Repeatedly go missing from care
 - Who are a risk to themselves and others
 - Children at risk of sexual exploitation

More widely in NSC, strategic work is being undertaken on Strengthening the Local Offer of Children. Developing and engaging the market is key for services to be joined up between disabled children, those with SEND (special educational needs and/or disability), or those who require post 16 placements, or residential, as well as those who are fostered, both in house and with private agencies. Transition planning is paramount of importance to enable throughput and ultimately improve outcomes for all children in NSC receiving care and support. Existing providers can help to develop more locally, as has been seen in other sectors, such as learning disabilities.

Where it has not been possible to keep a young person in area, the out of area residential placement should be for a maximum period of 6 months only (with the exception of cases such as trafficking where out of area is required). A local provider should be assigned to the young person provide regular support to this young person to interface with them with the view of bringing the young person back in area. This will mean that the higher placement costs are shorter term and there will be a clear transition plan with provider to bring them back in house and into supported living.

Currently there are limited options available to the council when determining how our most complex young people can be safely cared for often resulting in the use of high cost, out of area provisions. Due to an under developed market one of the key challenges is sourcing and holding local placements for young people with high needs; be they disabled, or complex looked after children. Significant work needs to be undertaken to strengthen the offer locally and reduce NSC's reliance on costly out of area placements, but for those that are placed, the DPS will help to ensure they have been vetted appropriate by being able to get onto the framework in the first instance.

4. CONSULTATION

The lead authority, with support from the other participating authorities, will facilitate market engagement and consultation as part of the commissioning process. NSC's Contracts and Commissioning, Legal and Procurement teams have been, and will continue to be, engaged throughout the process. The lead authority has already undertaken soft market testing.

Under the current DPS Bath and North East Somerset, who are the lead LA hosted a market engagement event in April, with a further event booked for November 2019. Internally we will be consulting with Service Leads for Children's Services and Safeguarding. The SWCG have been consulting with each other for months and will continue to do so. Other commissioner groups were also consulted about other frameworks, including the South Central, and a teleconference call was had between Southampton, Bournemouth, Christchurch and Poole and the current SWCG. The Contracts and Commissioning Officer has been working closely with the CPT to learn what works and does not on the current contract, which will help to inform the new specification.

5. FINANCIAL IMPLICATIONS

Costs

The budget and spend figures for the last two years together with the forecast for the current year is illustrated in the table below. The number of full year equivalent placements and the average unit cost is also shown.

	2017/18	2018/19	2019/20
Budget	£2,318,490	£2,550,990	£2,561,851
Actual	£3,069,380	£3,211,458	£3,216,802
FYE placements	16.25	19	15.4
Average Unit Cost	£188,885	£169,024	£208,883

Whilst the current forecast expenditure is in excess of the budget, there are other budgets across services for children looked after (predominantly secure, parent and baby, and in-house foster placements), which mean that the overall placements budget is not currently expected to significantly overspend.

To some extent, expenditure in this area is demand-led and depends on the individual needs of the young people involved. However, as part of the Children's Transformation Programme, the residential step-down project continues to identify young people who may be able to move back into foster care, home or independent living. The Turning the Tide Social Impact Bond funded service also continues to provide services to families with children, who without these interventions would be likely to enter care.

The 2020/21 medium term financial planning process makes an allowance for an expected increase in costs as a result of renewing the framework.

Future Spending Principles

- Based on the current framework spend we anticipate that the cost of the life of the framework may be £16m however this is may change based on need of not only the C&YP, but their individual circumstances.

- Although we may receive cost and volume discounts, there are only 8 providers on the framework who do these discounts currently, which has decreased.
- If all seven regional partners sign up there will be a cost of approximately £5,000 to the lead authority for undertaking the procurement and setting up the DPS.
- The DPS will identify unit prices for services which can be called-off under it, to meet the individual needs of the C&YP nominated to receive the service.
- The volume of activity will be dependent on individuals' needs as this is a spot-based framework contract.
- Any inflation / annual uplift clauses are to be determined as part of the procurement process.
- This arrangement will have a commercial focus in terms of continuing to deliver financial benefits through a further competition whilst also ensuring high quality support to children and young people.

6. LEGAL POWERS AND IMPLICATIONS

There are several key pieces of legislation underpinning LAs statutory requirement for Children Looked After (CLA)⁷ including but not limited to: The Children Act 1989, as amended by the Children and Families Act 2014, and the Children and Social Work Act 2017. The Care Act 2014 and Working Together to Safeguard Children 2018 are key for safeguarding C&YP. More widely, we have a statutory duty for NSC to have 'sufficient'⁸ placements for those who are CLA, which although not ideal, given the lack of residential homes in North Somerset, being part of a DPS helps to ameliorate the lack of provision.

The Specifications for the current contract, which would be a basis for the new DPS are underpinned by the contractual requirement of the Provider to comply with the Children's Home's Regulations 2001, the National Minimum Standards for Children's Homes 2002 and in relation to Schools where provided as part of the Service, the Education (Independent School Standards) (England) Regulations 2003. The Service Specifications demonstrate the commitment of Purchasers and Providers to work in partnership with a robust focus on placements that optimum outcomes relevant to the individual Child, within the framework of the Children Act 2004 **Every Child Matters 5 Outcomes**, being that Children should:

1. Be Healthy
2. Stay Safe
3. Enjoy and Achieve
4. Make a Positive Contribution and
5. Achieve Economic Well-being

In addition to the above placement stability in line with the Care Matters Agenda. The Service Specifications have taken account of the **seven key outcomes** identified by **Children at the Children's Rights Conference 2005** that Children should:

1. Be Happy
2. Have enough Food and Drink
3. Stay in Contact with Family

⁷ The terms Child Looked After and Looked After Child are often terms used interchangeably but for the purposes of this Decision shall both be taken to mean as defined in section 22 of the Children Act 1989 means a child (0-18 years of age) who is subject to a care order (or an interim care order) or who is accommodated by the local authority, who assume the role of Corporate Parent.

⁸ Sufficiency Statutory guidance on securing sufficient accommodation for looked after children, March 2010 <https://www.gov.uk/government/publications/securing-sufficient-accommodation-for-looked-after-children>

4. Have Friends
5. Have Fun
6. Experience Love
7. Receive Respect

NSC have a statutory obligation to provide this service.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Providers who have signed up to the current DPS' Terms and Conditions are required to use environmentally friendly practices (see Background Papers if required).

3.5 Environment

3.5.1 The Provider will endeavour to ensure that during the performance of the Contract they use working methods, equipment, materials and consumables which minimise environmental damage

NSC will use where possible, public transport, or other sources of sustainable transport including electric pool cars, rather than individual staff cars when attending regional meetings. The use of video and teleconferencing are also encouraged for meetings if they do not need to be attended face to face, however sometimes this is important for networking and market engagement events.

8. RISK MANAGEMENT

There are two main risks associated with the recommendations in this report, both are considered low risk for the reasons provided below:

Key providers fail to join the DPS

- As many LAs will be signed up to the framework we expect most current providers to join the DPS (as they are already on the current) and market engagement will be undertaken as part of the procurement process to encourage providers to join. Further regional and local market engagement can be arranged as required as new providers come into the arena.
- Providers on the current framework have tended to remain the same and be added to; the initial framework for these services dates 2008-2012 and then 2012-2016 have only grown.

There is a challenge to the council's procurement method

- The DPS will offer a transparent and robust procurement process.
- It will be a list that opens periodically and the opportunity to add new providers to the list during the lifetime of the process will reduce the need to award placements 'off-contract' and this reduces the risk of challenge.

9. EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes (stage 1)

The impact of the recommissioning of the framework on equality groups is none.

For vulnerable people it is low, and the impact is positive given the nature of the contract that is being recommissioned. The proposal does not discriminate against any protected groups and actively seeks to improve outcomes for CLA by ensuring that they are able to have access to residential and social care provision which meets their individual needs.

10. CORPORATE IMPLICATIONS

The commissioning of this DPS will positively support NSC in improving outcomes for CLA by providing good quality residential home placements for children in care who might require this type of placement. The DPS vets providers and a shared approach to contract monitoring by the SWCG helps to spread the load and ensure no duplication. By ensuring quality placements the DPS will support C&YP to access all the education, employment, training and social opportunities that they need to enhance their life chances, prepare them for adulthood and enable them to contribute to their community.

11. OPTIONS CONSIDERED

To join with other South West LAs to create a new DPS (Recommended)

- A DPS is an open purchasing system, which has more flexibility than a framework in that new providers can join at regular intervals to refresh the market and maintain value for money.
- It also encourages market development because of its transparent nature which gives all providers the intelligence they need to develop services in line with need and demand across the region.
- The DPS will include a pre-qualified list of accredited service providers to whom local authority purchasers may award contracts for services.

NSC to undertake a tendering process independently of the SWCG

- This option provides less flexibility in provision and limits the council's purchasing power and potential economies of scale afforded by the flexibility and size of a multi-council DPS.
- It would require significant investment by the council to create the additional resources required to design, implement and manage a stand-alone framework and to complete its own checks on providers to ensure continued quality.

Do nothing and spot purchase all placements

- This will not allow us the benefits that sub-regional procurement provides, and we would be unlikely to secure the best value as spot prices will usually be the most expensive method of purchasing as the less guaranteed the volume, the more expensive the cost will be.

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APPENDICES

- Appendix 1 20190924 EIA
- Appendix 2 20190924 Commissioning Timeline

BACKGROUND PAPERS

- Director Decision P&C77
- Market Position Statement Children & Young People 2016-2021
- National Residential Contract

Appendix 1
North Somerset Council
Initial Equality Impact Assessment



1. The Proposal

Service area:	COMMISSIONING PLAN APPROVAL - NATIONAL RESIDENTIAL CONTRACT FOR THE PLACEMENT OF CHILDREN IN CHILDREN'S HOMES
Lead Officer:	Gerald Hunt/Charlotte Badger
Links to budget reduction proposal? (Yes/No):	Yes
Date of assessment:	01/08/2019

Description of the proposal:

What is the change?

Recommissioning of a Dynamic Purchasing System for the Placement of Children in Children's Homes (it is not a change per se, as we still will be part of the South West Commissioners Group).

Summary of changes:

Please describe how the policy or service will change as a result of the proposal.

It will be a new framework in the region of 5 years. The lead Local Authority is also changing from Bath and North East Somerset to South Gloucestershire Council.

2. Customer equality impact summary

Will the proposal have a disproportionate impact on any of these groups?

Impact Level Insert X into one box per row, for impact level and type.	Impact Level				Impact type		
	High	Medium	Low	None	Positive	Neutral	Negative
Disabled people				X			
People from different ethnic groups				X			
Men or women (including pregnant women or those on maternity leave)				X			
Lesbian, gay or bisexual people				X			
People on a low income				X			
People in particular age groups				X			
People in particular faith groups				X			

People who are married or in a civil partnership				X			
Transgender people				X			
Other specific impacts, for example: carers, parents, impact on health and wellbeing. Please specify: CLA			X		X		

3. Explanation of customer impact

In line with your assessment above please provide an explanation for the level of impact for each protected group listed.

This service is specifically for Children Looked After, therefore other groups will not be impacted upon.

4. Staff equality impact summary

Are there any staffing implications for this proposal?

Yes

No

Explanation of staff impact

If yes, please describe the impact including the number of posts that could be affected? State whether they are currently vacant or filled permanently or temporarily.

6. Review and Sign Off

Directorate Equality Group

When was this assessment reviewed by the Directorate Equality Group?

Is a further detailed equality impact assessment needed?

Yes

No

If 'yes', when will the further assessment be completed?

Service Manager: Alison Stone

Date: 28/08/2019

Please ensure this EIA is approved by Service Manager prior to circulation.

If this assessment identifies a potential medium or high impact, then a Full Equality Impact Assessment needs to be completed



Department for Children, Adults and Health

Tender Schedule

RESIDENTIAL CHILDREN'S HOMES DPS

Southwest DPS	
Details	Date/Deadline
Commissioning Intentions Report	March 2019
LAs to confirm their participation in the framework	31-07-19
Working Groups to complete Tender documents <ul style="list-style-type: none"> • Contract Spec • Contract • Pricing Schedule • Market Position Statement • Participation agreement sign off 	30-09-19
Contract authorised by LA's Legal Depts	31-10-19
Residential Children's homes Monthly Board Meetings	09-09-19, 21-10-19, 18-11-19
Market engagement Event	November 2019 – date TBC
Invitation To Tender (ITT) via SupplyingSouthWest Portal	09-12-19
Deadline for submission of applications	31-01-20
Panel meetings to evaluate applications and award	03-02-20 & 26-02-20
Finance to check submitted company accounts	February 2020
Feedback produced	February 2020
Providers informed of provisional decision to award.	04-03-20
Alcatel Standstill Period (This stage allows a 10-day period after announcing the outcome of the commission, for providers to contest any of the decisions made as part of this commission).	5 th - 14 th March 2020
Formal contract award	16 th March 2020
Target for new contracts to start.	1 st April 2020