

**EXEMPTION AND DELEGATION TO AWARD FOR LOOKED AFTER CHILDREN AND INDEPENDENT SPECIAL EDUCATIONAL NEEDS (SEN) PROVISION**

*To:* **Children & Young People Committee**

*Meeting Date:* **9 October 2018**

*From:* **Wendi Ogle-Welbourn**

*Electoral division(s):* **All**

*Forward Plan ref:* **2018/073**                      *Key decision:* **Yes**

*Purpose:* **Request to Commission Looked After Children Residential Children's Homes Placements, Independent Fostering Agency Placements, Independent Non-Maintained Special School Placements and Out of School Tuition Services via a Dynamic Purchasing System.**

*Recommendation:* **The Committee is recommended to:**

- a) Give approval to Commission, and delegate authority to the Executive Director for People and Communities to award the above Dynamic Purchasing System**
- b) Give approval to seek to spot purchase Independent Fostering Agency placements using the existing specification and individual placement agreement for a period of up to six months, to 30.6.2019**
- c) Give approval to seek an exemption to spot purchase Independent Non Maintained Special Schools using the National Association for Special Schools Contract and Schedule 2 Agreement for individual placement agreements for a further 6 months, to 30.6.2019**

<b><i>Officer contact:</i></b>	<b><i>Member contacts:</i></b>
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## **1. BACKGROUND**

- 1.1 The Committee is requested to approve the commencement of commissioning activity in relation to Residential Children Homes, Independent Fostering Agencies, Independent Non Maintained Special Schools and Out of School Tuition.
- 1.2 Officers would like to commence commissioning activity to look at needs analysis, demand and service design, whilst considering the independencies across these services; as well as the opportunities that could be realised in maximising those interdependencies and working in collaboration with Peterborough and wider partners; including the Clinical Commissioning Group.
- 1.3 There are a range of options to be explored including a single Dynamic Purchasing System [DPS] whereby the services listed above are commissioned as “lots” within a single procurement, generating efficiencies, cost reduction, shared resource and maximising on knowledge and experience.
- 1.4 Commissioners have set up a project board to ensure holistic oversight of the strategy, opportunity and delivery of the interdependencies within these service areas, as well as individual work streams that report to the board that ensure the specific requirements of each service area are fully fulfilled; along with the requirements of the relevant sufficiency strategies.
- 1.5 The Head of Children’s Social Care Commissioning and the SEND Commissioning Manager are exploring how this commissioning activity can be jointly undertaken across both Peterborough City Council and Cambridgeshire County Council. This collaboration will ensure optimisation of benefits in terms of resources, efficiencies and meeting joint strategies.
- 1.6 Officers are also informing Members of our intention to spot purchase, for a period of up to six months, Independent Fostering Agency placements (the current framework is due to expire on the 31<sup>st</sup> December 2018), in accordance with the Council’s procurement rules.
- 1.7 An exemption is sought for Independent Special Educational Provision (ISEPs). These services are currently spot purchased using the National Association of Special Schools Contract and Schedule 2 of this contract is used to procure individual placements.

## **2. MAIN ISSUES**

- 2.1 Bringing together the commissioning activity in relation to Residential Children Homes, Independent Fostering Agencies, Independent Non Maintained Special Schools and Out of School Tuition will enable improved continuity, consistency and communication in the care of children and align procurement and contractual management.
- 2.2 Fostering  
Since October 2013, Cambridgeshire has been part of the Eastern Region - ER4 (Suffolk, Thurrock and Essex) regional arrangement for commissioning and contracting independent fostering agencies. We currently have a framework

arrangement for contracting with providers, commencing October 2013 and opening on an annual basis for new applicants and as a review point for existing providers to review costing and move up tiers. The framework has been extended to the maximum allowable period (31<sup>st</sup> December 2018) and the other Local Authorities, previously part of the framework have either re-tendered or are in the process of re-tendering their framework's individually. There are currently 51 providers on the framework.

- 2.3 Access to Resources 'call off' the framework for each individual placement in line with the Council's processes (to approach in house first) and in line with procurement 'rules' as outlined in the tender.
- 2.4 The regional approach has achieved shared procurement processes for both Local Authorities and providers, and also supported shared contract monitoring and resource costs associated with this activity, avoiding duplication and improving the process for providers; Suffolk took the decision to tender its new framework separately from the other regional partners (Cambridgeshire, Essex, Thurrock) and consequently, all partners then took the decision to tender separately. Suffolk offered all partners the opportunity to share its templates including specifications for the new service which is broadly based on the past specification. Cambridgeshire will adapt this specification and incorporate this in to the new Dynamic Purchasing System. An option of joining another neighbouring regional group but this is not possible in the timescales. Developing a Cambridgeshire framework will give the opportunity to increase foster care capacity in line with Cambridgeshire County Council's Sufficiency Strategy.
- 2.5 All previous ER4 partners have also agreed that, with the majority of Independent Fostering providers working across all partner authorities, a shared monitoring approach, similar to that used previously should be developed and adopted. Providers will therefore continue to benefit from the consistency of quality assurance documentation and process in the eastern region.
- 2.6 Children's Residential Homes  
The current framework contract for children's residential care ended on 30<sup>th</sup> June 2018. This contract has delivered very competitive prices, with an average placement price of £2531 per week (excluding education and residential special schools) and savings, in comparison with statistical neighbours. However, it has not addressed our need for more in county provision, accommodation requirements for emergency placements and the national growth in placement requirement for young people with complex needs requiring specialist placements (including learning disabilities, complex mental health issues and sexually harmful behaviour).
- 2.7 There has been growth in the Looked After Children (LAC) population over recent years which has put significant pressure on in house and external fostering agencies, and in turn has by default, resulted in a need to use residential care. Commissioning children's residential homes as one 'lot' within a Dynamic Purchasing System will encourage innovation and creativity amongst providers with regard to transition and shared arrangements between residential and fostering provision. It will also reduce the likelihood of placement disruption. Furthermore, providers may be more willing to develop a range of services that can offer

emergency provision and those that can manage complex needs. This is in line with the Cambridgeshire County Council's Sufficiency Strategy.

2.8 Independent Non Maintained Special Schools

Independent Specialist Education Provision (ISEPs) include day, 38 week and 52 weeks placements that are funded from the High Needs Block, as well as joint funding from the LAC Placements Budget and funding from the Clinical Commissioning Group (CCG). The current commitment on the High Needs Block is £9million, with split funding increasing the total commitment to £14million.

2.9 These services are currently not procured in line and within the requirements of the Council's Contract Procedure Rules and therefore the exemption is for the purpose of enabling the above activity that will satisfy both the Contract Procedure Rules and ensure open and fair competition; along with value for money and quality assurance.

2.10 Placements are made on the agreement of the Council's County Resourcing Panel (CRP) or in line with Parental Preference as set out in the SEND Code of Practice.

2.11 The Joint Commissioning Unit and Joint Commissioning Unit SEND Sub Group are in the process of consulting on a Cambridgeshire and Peterborough SEND Sufficiency Strategy and therefore the commissioning exercise above will need to take account of the sufficiency data, and subsequent work plan, in order to ensure we are making best use of the resources available and commissioning services that meet need, at the right time and in the right place.

2.12 Out of School Tuition

The Council are responsible for the provision of statutory education for children out of school either due to Permanent Exclusion, if they have an EHCP and are out of school, they have Medical Needs (but not inpatient) or children who are Looked After under Section 20 or 31 of the Children Act and are not in education; for example Unaccompanied Asylum Seeking Children.

2.14 Alternative Provision is a statutory provision that requires the Local Authority and Schools to provide Alternative Education for children who are receiving a curriculum that has a 20% or more variance to that of the mainstream curriculum.

2.15 For Primary Schools, SEND District Teams provides Alternative Provision for Permanently Excluded pupils and those on medical leave and for children without an Education, Health Care Plan (EHCP). The Local Authority utilise our staff first and then use an agency framework if at capacity.

2.16 For Mainstream Secondary Schools, the Local Authority have devolved funding for this duty via behaviour attendance improvement partnerships. The devolvement of funds for alternative education from the High Needs Block to schools via BAIPS is to put Head Teachers in control of the decision making process by giving Heads direct financial control of the budget. It is therefore out of scope for this commissioning exercise.

2.17 If the Local Authority are required to provide statutory education for pupils with an EHCP, the Statutory Assessment Team use the Out of School Tuition framework

and there is not capacity to provide this from District Team currently.

- 2.18 This is a two year framework contract with a 1+1 year extension that was utilised in March 2018 and is therefore due to end in March 2019. The contract value at the time of procurement was £1million, however the budget is significantly overspent with a current commitment of £2million.
- 2.19 It is thought the overall “unit cost” of provision has remained fairly static, however there has been an increase in demand and children are generally remaining on tuition packages for longer, due to a lack of available provision locally or in the independent sector. This will form part of the SEND sufficiency strategy and work plan, with a view to more effective commissioning of settings and provision will have a positive impact on the use of tuition.
- 2.20 The contract is performing reasonably, however there are a number of packages made “off contract” and a large proportion of the spend is commissioned with one or two providers.
- 2.21 There are a range of options available to deliver this provision, with one option being an in house service that is being considered separately in consultation with the project board for this commissioning exercise. However, even with an in house provision it is possible that specialist support and individual packages may be procured in the independent sector and therefore the Dynamic Purchasing System above will be a parallel plan, and support the in house commissioned service.

### **3. ALIGNMENT WITH CORPORATE PRIORITIES**

#### **3.1 Developing the local economy for the benefit of all**

The following bullet points set out details of implications identified by officers:

- Increase in local capacity will create fostering and residential opportunities. This will keep spend in the local economy.

#### **3.2 Helping people live healthy and independent lives**

The following bullet points set out details of implications identified by officers:

- Children placed locally will utilise local services enhancing consistency, continuity and communication in care

#### **3.3 Supporting and protecting vulnerable people**

The following bullet points set out details of implications identified by officers:

- Children placed locally will utilise local services enhancing consistency, continuity and communication in care

## **4. SIGNIFICANT IMPLICATIONS**

### **4.1 Resource Implications**

The following bullet points set out details of significant implications identified by officers:

- Utilising a DPS controls cost. Increasing the DPS capacity will reduce the risk of making placements on the “Open Market” which is driven by availability;
- Increasing local provision reduces travel costs and time;
- Enables services to better meet Cambridgeshire County Council’s children defined needs and improve permanency options.

### **4.2 Procurement/Contractual/Council Contract Procedure Rules Implications**

The following bullet points set out details of significant implications identified by officers:

- Utilising a DPS enables a single compliant procurement exercise that can be refreshed regularly.
- Alignment of contract management will enable standardisation of approach across providers
- This alignment will improve continuity, consistency and communication as the care plans and contract management can be holistic for the individual.

### **4.3 Statutory, Legal and Risk Implications**

The following bullet points set out details of significant implications identified by officers:

- Supports achieving the council’s statutory responsibility towards Looked After Children and having sufficient provision to meet their needs.
- The DPS will ensure that providers will abide by the assessment and approval of foster carers in the amendments to the Children’s Act 1989 Guidance and regulations;
- To ensure that Cambridgeshire County Council’s children placements are made to those registered with OFSTED and CQC in line with the regulation and registration legislation.

### **4.4 Equality and Diversity Implications**

There are no significant implications for this priority.

### **4.5 Engagement and Communications Implications**

There are no significant implications for this priority.

### **4.6 Localism and Local Member Involvement**

There are no significant implications for this priority.

### **4.7 Public Health Implications**

The following bullet points set out details of implications identified by officers:

- Children placed locally will utilise local services enhancing consistency, continuity and communication in care

<b>Implications</b>	<b>Officer Clearance</b>
<b>Have the resource implications been cleared by Finance?</b>	Yes Name of Financial Officer: Martin Wade
<b>Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?</b>	Yes Name of Officer: Paul White
<b>Has the impact on statutory, legal and risk implications been cleared by LGSS Law?</b>	Yes Name of Legal Officer: Allis Karim
<b>Have the equality and diversity implications been cleared by your Service Contact?</b>	Yes Name of Officer: Oliver Hayward
<b>Have any engagement and communication implications been cleared by Communications?</b>	Yes Name of Officer: Matthew Hall
<b>Have any localism and Local Member involvement issues been cleared by your Service Contact?</b>	Yes Name of Officer: Oliver Hayward
<b>Have any Public Health implications been cleared by Public Health</b>	Yes Name of Officer: Tess Campbell

### **SOURCE DOCUMENTS**

<b>Source Documents</b>	<b>Location</b>
<i>None</i>	