

Commissioning and Procurement Executive Committee – 12 March 2024

Subject:	Specialist Residential Children's Homes		
Corporate Director: Director:	Catherine Underwood – People Roz Howie – Commissioning and Partnerships		
Portfolio Holder:	Cllr Cheryl Barnard – Children, Young People and Education		
Report author and contact details:	Cath Cameron-Jones - Commissioning Manager, Start Well / Live Well Catherine.cameron-jones@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Tania Clayton Pérez, Senior Commercial Business Partner Tony Heath, Senior Solicitor, Contracts and Commercial Jo Pettifor, Category Manager, People		
Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Subject to call-in	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital			
Total value of the decision: £9m - £14m			
Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/a Spend Control Board approval reference number: 8235 (awaiting confirmation)			
Wards affected: All			
Date of consultation with Portfolio Holder: 26/02/2024			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input checked="" type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
<p>Local Authorities have a statutory duty to secure, so far as is reasonably practicable, sufficient accommodation within its local authority area to meet the needs of the children that the local authority is looking after (section 22G of the Children Act 1989; its 'Sufficiency duty'). To satisfy this duty, Nottingham City Council provides a range of accommodation options through in-house and externally commissioned services.</p> <p>The D2N2 partnership is proposing to tender for 4 x 2 bed homes (1 within each locality area) to meet the needs of children and young people who present with emotional/psychological issues and/or challenging behaviour.</p> <p>These specialist health residential homes will be jointly commissioned across the D2N2 footprint, utilising the existing D2N2 residential and Fostering Framework, incorporating D2N2 local authority partners (Derbyshire County, Nottinghamshire County, and Derby City) and Nottinghamshire and Derbyshire Integrated Care Boards (ICB). A D2N2 Inter-Agency Agreement</p>			

will underpin risk sharing/funding/placement decisions, building on the current D2N2 governance.

This proposal will be funded through the existing Children in Care Budget, using funding currently allocated to individual placements. It is expected to go out to the market in Quarter 1 of 2024/25.

Exempt information: State 'None' or complete the following

An appendix to the report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to finances and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is not in the public interest to disclose this information because it is pertinent to an upcoming tender and could harm the Councils' negotiating position.

Recommendations:

- 1** To grant approval to undertake a tender process in partnership with D2N2, through the existing D2N2 Framework Contract for a single provider to deliver 2 units of specialist residential care in Nottingham City through a 5-year contract with the option to extend for a further 4 years at the end of the initial contract period.
- 2** To delegate authority to the Director of Commissioning and Partnerships to enter into an Inter-Agency Agreement with D2N2 partners within the scope of the existing partnership arrangements governing the D2N2 Framework contract.
- 3** To delegate authority to the Director of Commissioning and Partnerships to approve the outcome of the tender process for the Specialist Childrens Residential Homes and agree for Nottinghamshire County Council to make that award on behalf of Nottingham City.
- 4** To delegate authority to the Head of Contracts, Quality and Personalisation to sign the contract once awarded.

1. Reasons for recommendations

- 1.1 Nottingham City is a partner in the D2N2 framework for residential and foster care. This enables us to call off the framework for residential homes as and when a young person requires a placement.
- 1.2 We currently have approximately 60% of our residential placements sourced through this framework and where we are not able to source a placement through the framework, we will go out to the wider market.
- 1.3 This tender seeks to establish 4 specialist homes of 2 beds each across the D2N2 footprint, with the potential to increase over the course of the contract. Using a block funding agreement and keeping the homes within 20 miles of each other, should enable development of a cost-effective service with all four authorities sharing the risk of the block funding to enable this.
- 1.4 One, two bed home will be established within each local authority area with the 'host' local authority providing the block funding for the home.
- 1.5 Nottinghamshire and Derby City are providing accommodation as part of the contract. Derbyshire and Nottingham City will require the provider to provide the

accommodation. The agreement between the four authorities will outline the process for reimbursement between the authorities in the event a child is placed into a partner's home and the circumstances this would be agreed.

2. Background (including outcomes of consultation)

- 2.1 Since March 2019, the number of children in care in Nottingham slowly rose from 629 to 721 in March 2023. While the overall number of children in Care in Nottingham is now falling, at as February 2024 the total number stands at 674, finding placements for children with complex needs and challenging behaviours remains a challenge.
- 2.2 Many of these children have experienced emotional and physical trauma in their lives and may have moved placements four or more times as providers struggle to manage their behaviour, particularly if in homes with 3 or 4 other children.
- 2.3 Solo placements, which many of the children need due to their behaviour having a negative impact on other children, are not only costly but also as a long-term solution, mean the child, who may also be excluded from mainstream schooling, is isolated from their peers, which then impacts on their ability to socialise and move towards becoming independent in adulthood.
- 2.4 The specialist residential homes are intended to be for one or two children. In many cases, they will be used for solo placements but as two bed homes, will enable a second child to be moved in as and when the first child becomes more stable. This will not only enable best value through economies of scale but benefit the child as a step toward more mainstream provision.
- 2.5 It is intended that these homes provide a short-term intervention to some of our most complex children, enabling stability in future placements.
- 2.6 The service will come with a guaranteed therapeutic wrap around support offer from the respective ICB. This therapeutic support will stay with the young person once they move on from the specialist home into their next provision, giving a more stable support function.
- 2.7 There will be provision within the contract to place in other D2N2 homes in order to increase the chance of being able to match children within these specialist homes. It is not anticipated that placements out of area will happen often, but the provision is there to ensure the best use can be made of the placements and children kept within 20 miles of their local authority.

3. Other options considered in making recommendations

- 3.1 Do nothing. This is an identified gap in the market and due to current insufficiency of supply we are currently placing in unsuitable accommodation at significant cost.
- 3.2 To commission the service outside of the D2N2 partnership arrangement. It is anticipated by offering a provider up to 8 units of accommodation within a relatively small footprint, this will offer economies of scale and be more attractive to providers.
- 3.3 To procure more than 2 units. While needs suggest that we could use higher levels of placements, we are using this approach to test the viability of the

model. The health offer will also need to be considered and whether this can be expanded or reconfigured to provide dedicated support to more units.

4. Consideration of Risk

- 4.1 There is a risk that providers will not bid for this service. As stated, many providers do not wish to work with high-risk children due to fear it will impact on their OFSTED status. However, the dedicated therapeutic support from health will help the provider to navigate these risks. All authorities are also committed to working with OFSTED to support the provider on the basis of the specialist criteria for accessing the service, i.e. young people with significant behavioural challenges.
- 4.2 There is a risk that the service will be underutilised and therefore a block payment would not be cost effective. However, the homes will be priced as solo homes but benefit from economies of scale when both units are in use. There is a long term and consistent need identified for placements to support our most complex children. The ability to utilise units in partnering authority homes will also reduce the risk of any home remaining vacant and increase the likelihood of both units being used.

5. Best Value Considerations

- Enabling a transparent price to be set rather than relying on the market to provide best value at point of ciris along side procuring in partnership with the other D2N2 authorities, to maximise potential for economies of scale, is likely to deliver best value.
- The block contract would cover the cost of a solo placement, enabling further best value through a low cost second placement.

6. Finance colleague comments (including implications and value for money/VAT)

- 6.1 The decision seeks to tender in partnership with D2N2, through the existing D2N2 Framework Contract for a single provider to deliver 2 units of specialist residential care within the Nottingham City boundary.
- 6.2 The period of time relating to the tender is a 5-year contract with the option to extend for a further 4 years at the end of the initial contract (5+2+2).
- 6.3 If successful, the funding for the provider costs will be through existing external placements budgets held within the Children in Care service. This arrangement would give further options in placing children and young people who present with emotional/psychological issues and/or challenging behaviour.
- 6.4 Access to other homes within the D2N2 region could also be utilised if demand in the other areas is lower than expected, increasing potential best value on placement cost.
- 6.5 Any framework inflationary increases in future years would need to be addressed within the MTFP planning process as part of external placement provider uplifts.

7. Legal colleague comments

- 7.1 This decision should support the Council meet its statutory duties to the children who will benefit from the proposed provision, in particular the duties under the Children Act 1989.
- 7.2 This appears to be a compliant route to market for such services, noting the comments from Procurement colleagues. In using the framework, it is assumed that the terms of the call-off arrangements are already fixed and offer little scope for variation. The Council should ensure that those terms meet their requirements and that the Council can meet any obligations imposed on the Council by those terms.
- 7.3 In particular, clear performance indicators need to be established, monitored and actioned as appropriate, for example only, the success of the interventions being “short-term”. It is key that this arrangement is premised on the high quality of the provision offered and does not, in itself, create an expectation of a contract for any fixed period of time.
- 7.4 It would be prudent that support from Legal Services is sought prior to Recommendations 2 and 4 being actioned. There should be focus on documenting the inter-agency arrangements in sufficient detail that there is a clear understanding of the operational and governance arrangements between the partners.
- 7.5 It is understood that legal advice for the specific of this call-off of the main D2N2 residential and fostering framework is being provided by Nottinghamshire County Council as lead partner in the D2N2 framework. The partnership and overarching contracting arrangements for operating under the framework are already in place.

Tony Heath, Senior Solicitor, Contracts and Commercial - 27 February 2024

8. Other relevant comments

Procurement

- 8.1 This decision relates to the joint commissioning of 4 specialist homes for Children in Care, with D2N2 partner authorities. The procurement will be undertaken by Nottinghamshire County Council on behalf of Nottingham City and other D2N2 partners through compliant call off under the established D2N2 framework for Children in Care services.
- 8.2 One provider will be secured to deliver 2 units of specialist residential care in the Nottingham City area, and Nottingham City Council will be responsible for upfront funding of this home. It is understood that the financial risk of block funding will be mitigated by other authorities being able to use vacancies and reimburse the costs.
- 8.3 It is anticipated that the block arrangements will secure lower prices than commissioning on a more ad hoc basis, and there will be economies of scale when both units are in use.
- 8.4 Best value for money will be secured through the competitive call off process between providers on the framework.

- 8.5 Cost benchmarking should be completed in order to set a reasonable, value for money price range for bids. These recommendations are supported from a procurement perspective and the Procurement Team will support with the procurement process as needed.

Jo Pettifor, Category Manager, People - 27 February 2024

9. Crime and Disorder Implications (If Applicable)

- 9.1 N/A

10. Social value considerations (If Applicable)

- 10.1 This service will work with children with significant mental and emotional health issues. Positive outcomes for young people are likely to impact on their long-term health and wellbeing as adults.
- 10.2 Improved local health outcomes contributes to socio-economic factors such as healthy life expectancy, employment and local economic development.

11. Regard to the NHS Constitution (If Applicable)

- 11.1 Local Authorities have a statutory duty to have regard to the NHS Constitution when exercising their public health functions under the NHS Act 2006. In making decisions relating to public health, functions we consider the NHS Constitution where appropriate and take into account how it can be applied in order to commission services to improve health and wellbeing.

12. Equality Impact Assessment (EIA)

- 12.1 An EIA is not required as the authority has a duty to provide sufficient fostering and residential accommodation to meet the needs of the children in its care. The D2N2 framework provides provision to do this and this call off from the main contract simply increases provision and choice in that market.

13. Data Protection Impact Assessment (DPIA)

- 13.1 A DPIA was created for the overarching contract that this service is being called off from and due regard will be given to any implications identified in it.

14. Carbon Impact Assessment (CIA)

- 14.1 A CIA is not required because there are no CIA implications.

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 15.1 Commissioning and Procurement Sub-Committee report and Minutes – 11/06/2019

16. Published documents referred to in this report

- 16.1 Childrens Act 1989 amended 2004;
- 16.2 D2N2 Residential and Fostering Framework.