

Commissioning and Procurement Executive Committee – 21 May 2024

Subject:	Fee levels for Children in Care Placements 2024/25		
Corporate Director:	Catherine Underwood – People		
Directors:	Roz Howie – Adults, Health and Commissioning Alisa Barr - Children’s Integrated Services		
Portfolio Holder:	To be confirmed		
Report author and contact details:	Karla Banfield - Interim Deputy Director of Commissioning and Partnerships Karla.banfield@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Paula Gledhill and Shabana Kausar - Finance Del Sanders - Legal Jo Pettifor - Procurement		
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: £3,548,643			
Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a Spend Control Board approval reference number: 9653			
Commissioner Consideration Has this report been shared with the Commissioners’ Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Portfolio Holder: TBC			
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 checked="" 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): This report presents proposals for placement fee levels in 2024/25 across externally commissioned children’s care placements, including children’s residential care homes and foster care placements that are commissioned in partnership with D2N2 (Derby, Derbyshire, Nottingham and Nottinghamshire) or regional colleagues. The Council has a statutory duty to ensure there is sufficient accommodation for its looked-after			

children and young people, which meets their needs in its authority area (section 22G of the Children Act 1989 'the sufficiency duty'), balanced against budget commitments and pressures for the Council.

Nottingham City Council is part of several pan-local authority framework agreements and directly commissions Children in Care placements. Whilst placement fee levels are reviewed annually, due to the current unprecedented economic climate, the annual inflationary increase is expected to exceed that ordinarily applied and is subject to council discretion.

Exempt information: State 'None' or complete the following

Appendices to the report are exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because they contain information relating to commercially sensitive information relating to the Council's pricing structure and financial modelling 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 declaring financial modelling to suppliers would prevent the authority from managing the market efficiently, which could cost it more in the future.

Recommendations:

1. To approve the proposal for the fee levels for Children's Care Placements as outlined in the pricing details in the exempt appendices.
2. To delegate authority to the Director of Commissioning and Partnerships, in consultation with the Director for Children's Integrated Services, to agree fee levels in accordance with the proposals detailed in the exempt appendices, subject to the outcome of further engagement with providers and in line with the Council's budget. (subject to engagement and recommendation 4 below, the agreed rates will be implemented from April 2024).
3. To approve the total spend of up to £3.549 million, which represents a 4.0% increase in accordance with the D2N2 and East Midlands Regional Partners. This approval aligns with the contract terms, which also include authorisation for spending on high-cost placement provision through the Council's scheme of delegation for Children's Care Packages.
4. To note upon completion of the consultation, a further approval from this Committee will be sought if the financial impact of any revised proposals exceeds the approved fee uplift budget in 2024/25 of £3.549m.

1. Reasons for recommendations

- 1.1 Nottingham City Council considers the fee levels for children's care placements on an annual basis and, in doing so, will take account of several factors within the context of the broader financial position of the Council.
- 1.2 The Council has a statutory duty to ensure sufficient accommodation for its looked-after children and young people, which meets their needs in its authority area (section 22G of the Children Act 1989, 'the sufficiency duty'), balanced against budget commitments and pressures for the Council.
- 1.3 Where the Council is party to pan-local authority frameworks, there must be engagement with the local authorities party to these framework agreements. Where the outcome of these discussions requires consideration of a meaningful change to the financial consequence of these proposals (with due

regard given to the available budget), a further report will be presented through the appropriate governance process.

- 1.4 These proposals and the associated financial modelling are based on available information about service utilisation and demand.
- 1.5 The recommendations presented take account of the implications of inflationary pressures on the children's placements market and aim to represent a fair allocation of funding to support the market across all service areas. The proposals seek to support a sustainable, efficient, and effective market within the available resources.

2. **Background (including outcomes of consultation)**

- 2.1 The Council has a statutory duty to ensure sufficient accommodation for its looked-after children and young people, which meets their needs in its authority area (section 22G of the Children Act 1989 'the sufficiency duty'), balanced against budget commitments and pressures for the Council.
- 2.2 To support this duty, the Council commissions children's care placements (including residential care homes and foster care) from external agencies through several mechanisms. This includes collaborative framework agreements such as the D2N2 Children in Care Framework (D2N2 Children in Care (CiC) Framework) and the East Midlands Regional Framework, block contracting and spot purchasing arrangements.
- 2.3 Price reviews for these externally commissioned children's care placements are undertaken annually in line with contract terms and conditions. Due to the current unprecedented economic climate, the annual inflationary increase is expected to exceed that ordinarily applied and is subject to council discretion.
- 2.4 Decisions for price increases are based on a range of factors such as the current market position, cost of living indices and Office of National Statistics data. Specifically, consideration has been given to the National Living Wage and other pressures such as cost of living, pensions, profit margins and voids. This proposal also considers the MTFP (Medium Term Financial Plan) position and other financial pressures.
- 2.5 Under the D2N2 CiC Framework, weekly prices will increase annually, at the discretion of D2N2 by 1.5% or Consumer Price Inflation, whichever is the lower. Should CPI rise above 3%, the Contracting Authorities will review the annual increase. The current CPI is 4.2% as of 17 January 2024.

In the Autumn Statement issued on 22 November, it was confirmed that national living Wage would increase by 9.77% to £11.44 and that this new rate would also apply to 20–23-year-olds (over 11% increase). Energy prices also rose following an increase in January 2024 to the energy price cap.

- 2.6 This proposal is put forwards against a backdrop of increased demands on children's social care, policy change, difficulty in attracting workers into the care sector, due to competition from other sectors and lack of capacity with the children's placement market.
- 2.7 Nationally, the children's placement market is functioning inefficiently. A market study (undertaken by the Competition and Markets Authority in 2021/22) reported

significant problems in how the placements market functions and made several policy reform recommendations to the Government. Concerns included a lack of placements (of the right kind in the right places) high-profit levels, pricing, and debt within the market's most significant private providers.

2.8 An increase in fee rates for placement takes effect from April 2024 on the D2N2 CiC framework. Where frameworks are pan-local authority, the Council will engage with those local authorities as required. The D2N2 CiC framework is joint with Derby City, Derbyshire County and Nottinghamshire County Council's.

2.9 The framework is the primary mechanism for commissioning new placements for children in residential and foster care, with 92% of new fostering placements and 56% of new residential placements made through this Framework over the budget year 2022-23.

3. **Other options considered in making recommendations**

3.1 Do nothing – In order to meet the sufficiency duty and avoid higher costs and distant off-framework placements, it is important to act due to the current economic pressures and insufficient capacity in the market. Failing to do so runs the risk of providers not being able to offer placements for children in Nottingham.

3.2 Offer different fee rate proposals. It is not recommended to offer different fee rates for Children's Social Care as the proposals are already based on market knowledge, feedback from providers, and budget pressures. D2N2 has employed a joint post to understand market forces and risks to placement sufficiency. Final proposals have considered the potential impact on service delivery and the risk of market failure.

3.3 Benchmarking carried out in September 2023 on rates paid to external providers in the first quarter of this financial year show that Nottingham City pays approximately 7% less than the average of other regional providers for residential, with only Rutland having lower average rates.

3.4 For supported accommodation, a snapshot for July and August showed our average rates were 32% lower than regional comparators (with only Leicestershire having lower rates). Any inflationary increase under the 5% agreed by D2N2 and regional partners would seek to highlight these differentials and would make it more likely providers would challenge us and/or prioritise other authorities for placements.

3.5 Leaving the sub-regional framework/establishing a Nottingham City-only procurement mechanism. This option was rejected because a sub-regional framework allows a significantly greater ability to manage the market, minimise operating costs, benefit from volume and allow joint learning, identification, and dissemination of best practice.

3.6 Additionally, there needs to be more time to establish a Nottingham City-only framework, which we do not believe would deliver the best value as we do not have the volumes of work to attract sufficient suppliers to a potential Nottingham City-only framework.

4. **Consideration of Risk**

- 4.1 **Affordability** - The Council's financial pressures are significant and further savings are required in 2024/25, with cost pressures anticipated to continue. The analysis has considered the wider budget position, and these proposals are considered the fairest way to distribute the funding available across children's care provision.
- 4.2 **Risk of failure to meet the sufficiency duty.** A fee set to low-risk providers not offering places to Nottingham's children in care. This could result in more placements being sourced off-framework at potentially a higher cost and more young people being placed at a distance, which requires more extensive planning for supporting services and is contrary to the sufficiency duty. This risk is exacerbated due to the lack of capacity in the national market.
- 4.3 **Risk of market or provider failure.** Several market-related factors have been considered, including the size of the market, any evidence of market failure, whether providers are managing to deliver and cover their costs under the current fee rates, and whether pricing is equitable and supports an efficient, effective, and sustainable market. This has been informed by the Competition and Markets Authority (CMA) final report (see link in section 17 of this report) and an understanding of the local market. The proposals consider provider feedback on the costs of delivering services and financial pressures.

5. **Best Value Considerations**

- 5.1 Best value is being addressed through leveraging this joint approach to commissioning CiC Placements (as opposed to sole) with neighbouring local authorities provides the following benefits.
- Securing local sufficiency for our children and young people as part of our statutory 'sufficiency duty';
 - Increased buying power by reducing competition between Local Authorities;
 - Reduced framework, contracting and procurement operating costs
 - Providing opportunities to enable more providers to join through framework opening flexibility;
 - Management of market costs by benefitting from volume;
 - Joint learning, identification, and dissemination of best practice.
- 5.2 Undertaking the work to identify appropriate fee levels for external placements and ensuring market sufficiency and sustainability ensures that the Council achieves the best value for its children. By working together across D2N2 and the East Midlands on fee uplift the Council benefits from the more extensive buying power of the partnerships.
- 5.3 There is currently work being done to mitigate spending and save money in the CiC Placements market.
- 5.3.1 **Unregulated Panels:** The process of relocating children from high-cost placements to regulated ones involves a systematic approach to ensure better outcomes for the children while also achieving cost savings. The relocation process is carefully planned, considering the specific needs of

each child. By placing them in regulated facilities, we can offer them a safe and supportive environment that helps them thrive.

- 5.3.2 In the past year, our efforts have led to the successful relocation of 17 children. This has resulted in significant cost savings, estimated to be around £4 million. These savings can be attributed to the reduced cost of providing care and support to the children in regulated placements, as opposed to high-cost placements.
- 5.3.3 Overall, our approach to relocating children has proven to be effective in achieving positive outcomes for the children while also being cost-effective. We will continue to refine our approach and work towards providing the best possible care and support to the children in our care.
- 5.3.4 **Provider Negotiations:** This process takes place prior to a child being placed under the care of a provider. Once the social worker has identified a suitable placement for the child, the placement is then assessed for its value. If the placement is worth £6k or more, the responsibility for negotiating with the provider is transferred to C&P. Further negotiations take place throughout the time of the placements to reduce costs relating to additional support.
- 5.3.5 This approach has been predicted to help mitigate spending by £1.1m in 23/24. However, it is expected that the cost mitigation will not be as significant next year due to the increased emphasis on placement costs and improved practices.
- 5.3.6 **Step-Down Panels:** These panels review children in residential care and identify those who can be moved into foster placement or semi-independent accommodation.
- 5.3.7 Social care and C&P experts work together to assess the needs of each child and determine the best course of action for their care. Residential placements are known to be much more costly than those in foster care and can also be detrimental to a child's overall well-being. Research has shown that children placed in foster care tend to have better outcomes than those in residential care.
- 5.3.8 The panel focuses on transitioning children from residential care to foster care whenever possible. Over the last 12 months, this panel has been successful in reducing spending by a significant £1.3 million. This has not only saved money but has also helped to improve the lives of the children in care.

6. **Commissioner comment**

- 6.1 There are no further comments from Commissioners, and they are content for the decision to proceed. (12/05/2024)

7. **Finance colleague comments (including implications/value for money/VAT)**

- 7.1 As set out in the report above, the Council are part of several collaborative regional frameworks which provides authorities with an advantageous position for negotiation and a consistent approach to fee uplift across the region.

- 7.2 For 2024/25 the Council are proposing to adopt a fee and commissioning strategy to maximise its use of the D2N2 framework for placements for children in care with a view to develop the market and minimise use of spot contracts, as the latter leads to procuring placements above framework rates.
- 7.3 A 4% fee uplift for framework contracts has been included as a growth within the approved 2024/25 budget, details of which are set out in appendix 1 and summarised in the table below.

Table 1: Estimated Placement Uplift Costs for 2024/25			
Contract Type	Average Placement Costs	FTE	Contact Uplift Estimate
	£		£m
External Residential	4,995	134.0	0.747
IFA	963	220.0	0.395
Secure	3,343	2.6	0.018
Semi-Independent	1,461	89.0	0.270
Supported Lodgings	1,515	1.2	0.001
Other	21,170	56.1	2.117
Totals		503.0	3.549

- 7.4 Spot contracts continue to be a risk for the Council, especially due to market sufficiency as this reduces the Council's ability to influence where and how it procures placements increasing the risk to procuring placements off-framework at potentially a higher cost. This risk is exacerbated due to the lack of capacity in the national market. Therefore, it is vital the service continues to proactively develop, implement and deploy mitigating strategies alongside their current early intervention and commissioning activities which support demand and market management and containing financial costs within the budget envelope.

Paula Gledhill, Interim Strategic Finance Business Partner - April 2024 and Shabana Kausar, Director of Finance (Deputy s151) – May 2024

8. Legal colleague comments

- 8.1 Placement fee levels are reviewed on an annual basis in line with contracted terms. Engagement will be undertaken with providers and other Local Authorities party to the framework agreement and the responses will be fully considered prior to implementation from April 2024.
- 8.2 The Director of Children's Integrated Services will take account of these views and issue variations to existing contracts reflective of the proposals in this report should no significant issue arise and subject to it being lawfully permissible.

Del Sanders, Locum Solicitor, Contracts and Commercial – April 2024

9. Other relevant comments

- 9.1 There are no procurement implications arising from this decision. The commissioned services in question are contracted through compliant procurement processes, and the placement rates proposed consider factors impacting the provider market and seek to ensure fairness and consistency

across all providers and reflect the affordability constraints of the local authority. The uplifts have been developed using recognised inflation and living wage requirements and these uplifts are allowed within the contracts.

Jo Pettifor, Category Manager – March 2024

10. Crime and Disorder Implications (If Applicable)

10.1 Not applicable.

11. Social value considerations (If Applicable)

11.1 Children are placed in local provision wherever possible when this is in their best interests. This approach also supports local employment and investment in the local economy.

12. Regard to the NHS Constitution (If Applicable)

12.1 Not applicable.

13. Equality Impact Assessment (EIA)

13.1 An EIA, if required, will be undertaken following engagement with providers as required to inform the final fee rates.

14. Data Protection Impact Assessment (DPIA)

14.1 A DPIA is not required because this decision does not involve personal data. The data protection implications of the contracted services involved is addressed in the existing contractual arrangements.

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not required because there are no carbon implications arising from this decision. It does not make any proposals for the delivery of services or activities but relates to the funding levels of existing contracted services.

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

16.1 None.

17. Published documents referred to in this report

17.1 [Children's social care market study final report.](#)

17.2 [Chancellor announces major increase to National Living Wage.](#)

17.3 [The independent review of children's social care: final report](#) (published 23 May 2022).