

Commissioning and Procurement Executive Committee – 10 September 2024

Subject:	Children’s Residential Block Call-Off		
Corporate Director: Director:	Ailsa Barr – Children and Education Services (Interim) Sarah Nardone – Children’s Integrated Services (Interim)		
Executive Member:	Cllr Cheryl Barnard - Children, Young People and Education		
Report author and contact details:	Cath Cameron-Jones Cath.cameron-jones@nottinghamcity.gov.uk		
Other colleagues who have provided input:	Noureen Safdar – Finance Richard Bines – Legal Jo Pettifor – Procurement Zoe Richards - Interim Commissioning Officer		
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: Up to £18.72m (maximum Block commitment £11.262m)			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a			
Spend Control Board approval reference number: Approval application submitted			
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 Executive Member: 28/08/2024			
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 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 type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
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.			
This tender seeks to establish 2x2 bed homes for children in care who face challenges in finding placement within standard residential services. These young individuals have diverse needs, often resulting in behaviour that requires specialised support.			

The service will be procured through the existing D2N2 residential framework contract as a block call off.

This initiative complements two further tenders. Firstly, the development of a 2-bed collaborative specialist home with health partners and secondly, a broader tender for additional beds, scheduled for later this year which replaces an existing block contract. The broader tender will also include provision of places for children with more complex needs which it has not done so previously.

The maximum contract value for this 2x2 bed tender includes provision for full utilisation and assumes additional staffing will be required at times plus the potential for therapeutic interventions to be provided by the provider.

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 September/October 2024.

Exempt information: None

Recommendations:

- 1 Subject to receipt of appropriate spend control approval, to approve spend of up to £18.72m over 9 years for the provision of up to 4 children's residential care beds, of which up to £11.262m will be as a guaranteed block payment.
- 2 To approve procurement through the existing D2N2 framework of 2x 2-bed residential care homes for children with complex needs for 5+2+2 years.
- 3 To delegate authority to the Director of Commissioning and Partnerships to approve and award the outcome of the tender process
- 3 To delegate authority to the Head of Service Contracts, Quality and Personalisation to sign the call off contract, save for any agreement/contract being required to be executed as a deed, which shall be executed on behalf of Nottingham City Council by the Director for Legal and Governance / Head of Legal and Governance.

1. Reasons for recommendations

- 1.1 This commissioning project seeks to establish 2x2 bed homes for children in care for whom it is challenging to find placements for within standard residential services. These young individuals have diverse needs, often resulting in behaviour that requires specialised support.
- 1.2 Currently, providers offering homes under the D2N2 framework are not coming forward to provide support to these children and local provision under spot purchases is also lacking. By offering D2N2 providers a guaranteed income under a block contract for up to 9 years, (on the basis of a 5+2+2 award), we aim to encourage investment in the development of these homes, specifically designated for children from Nottingham City.
- 1.3 The initial contract period allows the authority to assess the performance of a service provider and the provider to ensure that it is working for them. The extensions indicate the intention of the authority to have a longer-term arrangement but also enable the contract to be easily ended by either party if

the relationship is not working well. The initial period for a contract where the provider is expected to invest in property needs to be a minimum of 5 years (with a longer-term intent) but splitting the second part into a 2+2 enables easier contract management with the last 2-year extension being the signal to start a new procurement plan.

- 1.4 We currently have 11 children placed in unsuitable provision. Although they are not registered with OFSTED, we continue to monitor them through our quality monitoring systems and provide more frequent social work input. We are required to notify OFSTED when we use these placements because the children should be in registered care. These tend to be children who need to be matched very carefully if living with any other child or who require a solo placement until they become more stable. Unregistered accommodation is a short-term emergency fix, but we strive to move children into registered provision as quickly as possible.
- 1.5 These placements are also costly as they tend to be set up quickly with high staffing levels and the prices reflective of the lack of choice within the market for provision for these children.
- 1.6 Many D2N2 providers have submitted indicative costs for 'specialist' 1 and 2 bed homes which indicate that this would provide cost savings to the authority. However, to invest in accommodation, providers require assurance of continued utilisation.
- 1.7 The intention is to limit the block contract element to a cost which would enable a 2-bed home to be run as a solo provision with reduced payment for the second child. This would enable the home to be cost effective for the provider to run in the event it needed to be run as a solo home for a period of time, but enable efficiencies of scale to be delivered when the second child moves in. Weighting the provider profit/surplus to the second child would also incentivise the provider to work in partnership to ensure a second placement can be made where appropriate. Currently, where a bed in a home is 'blocked' to enable solo use, 2 full placement costs are paid which is not generally reflective of the cost to the provider and does not provide best value for the council.

2. Background (including outcomes of consultation)

- 2.1 While the overall number of children in Care in Nottingham is now falling, as at July 2024 the total number stands at 640 compared to 721 in March 2023, finding placements for children with complex needs and challenging behaviours close to Nottingham City 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 The need for solo placements, often necessitated by children whose behaviour negatively affects their peers, is not only expensive but also not a long-term solution. It results in the child's isolation from their peers, which can hinder their social development and their transition to independence in adulthood, particularly if they are also excluded from mainstream schooling. Additionally, solo placements always require at least two staff members, which may not be necessary once the child becomes more stable.

- 2.4 Two bed homes enable a second child to be placed when the first child is more stable, reducing the likelihood that the first child will need to move again or that a solo placement continues indefinitely. It also enables staffing levels to be reduced to 1:1 where appropriate which is more cost effective than solo placements requiring 2 staff at all times.
- 2.5 The pledges developed with the Children in Care Council include the requirement to:
- have a safe and secure place to live which meets your needs, and be well cared for;
 - build relationships with people you trust, make and keep friends and stay in touch with family where you can.
- 2.6 Ensuring appropriate provision close to Nottingham for children who may otherwise be in unsuitable accommodation or moved further away from Nottingham helps to meet these pledges.
- 2.7 It remains a focus for Nottingham to reduce the number of children in residential placements, both by continuing to reduce the number of children coming into care through prevention and early intervention but also by using fostering and connected persons placements and supported accommodation for 16/17-year-olds wherever possible. However, residential care currently remains a solution for nearly 19% of Nottingham's children in care and therefore ensuring that we have cost effective homes, suited to the needs of our more complex children is essential.
- 2.8 The decision to utilise the existing framework for a call-off which will run for up to 8 years past the end of the framework itself has been taken due to the need to procure a service in a timely manner to meet the needs of children placed in inappropriate placements. As described above, the contract needs to be long enough to encourage investment in property and the development of a robust service which can meet the needs of some of our most complex children. The terms of the framework contract meet the requirements and will continue to apply for the duration of the call-off. A detailed service specification to complement and enhance what is already in the overarching framework is being developed to ensure a service suited to the requirements and robust monitoring of this call-off contract.

3. Other options considered in making recommendations

- 3.1 Waiting for the larger block contract to be let and incorporating these beds into that tender. It is intended that the larger block will go out to the open market, to increase the likelihood of a successful tender as historically, the D2N2 framework has not given us much sufficiency within the more specialist homes (though 60% of total residential placements are sourced through D2N2) and the model we are considering for the larger block is not compatible with the terms of the framework. Going to the D2N2 framework for these beds is a faster process as providers have already been approved, but also will hopefully provide us with some beds more quickly. It also demonstrates our commitment to an on-going relationship with the D2N2 framework providers.
- 3.2 Continuing to commission on an individual call off basis. This has not proved successful to date, either through the D2N2 framework or by spot purchasing

and providers have indicated that a block arrangement would give them more confidence to invest in property and ring fence beds for Nottingham City.

4. Consideration of Risk

- 4.1 D2N2 framework providers may not bid for the work. This would mean that provision is not available as quickly, but we would increase the numbers in the future larger block accordingly.
- 4.2 This block value will be for the support of 1 child, considering the full cost of running a 2-bed home. The second placement will be funded on top of the guaranteed block but will offer further cost efficiencies, as despite the profit element being more weighted to the second placement because a large proportion of the costs of the home have been funded from the block. the second placement will therefore be at a lower cost. Where additional staffing is required, either as a solo or dual provision home, this will be paid in addition to the block element.
- 4.3 The two bed homes may end up being solo placements relatively long term. Due to the variation in the cost of unregistered provision, even if operating as solo homes, it is expected that there would still be an overall cost reduction. Where solo placements were not considered to be in the best interests of the child, the provider has been incentivised by the payment structure to work in partnership to move a second child in.

5. Best Value Considerations

- 5.1 A maximum block contract value will be applied at less than the average value of current alternative placements in unregistered accommodation to ensure efficiencies are made.
- 5.2 This block value will be for the support of 1 child, taking into account the cost of running a 2-bed home. Further cost efficiencies will be made when a second child is placed in the home. The second placement will be funded on top of the guaranteed block but will offer further cost efficiencies, as despite the profit element being more weighted to the second placement (because a large proportion of the costs of the home have been funded from the block), the second placement will therefore be at a lower cost.
- 5.3 Best value will be further established by ensuring that only those children who would otherwise be in unregistered provision or placed in similarly expensive homes further away from Nottingham, will be considered as the first child in any home. As the cost of the second placement will be much lower, reducing the average cost per child, a second child would not necessarily have to meet the same criteria.
- 5.4 The contract will require minimum utilisation of 95% for solo placements and 80% for two-bed homes.
- 5.5 The block element will be set at a maximum of £12,000 per 2 bed home, with additional funding being made available for additional staffing or the placement of a second child as required. This is lower than the current average cost for individual children in unregistered emergency provision.

6. Commissioner comments

6.1 Commissioners have noted the content of the reports and have no further comments

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

7.1 The decision seeks to tender & approve a 9-year contract to a maximum value of £18.72m with the maximum block commitment of £11.262m for Children's Residential Block Call-Off.

7.2 The current annual budget provision in the unregistered placement is £4.616m per annum for this service. Procurement will not proceed unless the tender meets the contract envelope value which can easily be covered provided the placement includes the following costs:

- Activity Allowance (Weekly);
- Food Allowance (Weekly);
- Management/Administration/Insurance Fee (Weekly);
- Pocket Money (Weekly);
- Clothing Allowance (Weekly);
- Savings (Weekly);
- Floating Support - Non-qualified;
- Floating Support – Qualified;
- 121 Support (Weekly);
- Sleep-In - per staff member (Weekly);
- Transport Support (Weekly);
- Waking Night - per staff member (Weekly).

7.3 There is sufficient budget for this proposal in this and future years provided the above costs are included. Future MTFP decisions will need to consider the future contract values to ensure the budget is retained to meet the contract.

Noureen Safdar, Senior Commercial Finance Business Partner – 12/08/2024

8. Legal colleague comments

8.1 Section 22G of the Children Act 1989 requires local authorities to take strategic action in respect of those children they look after and for whom it would be consistent with their welfare for them to be provided with accommodation within their local authority area. In those circumstances, section 22G requires local authorities, so far as is reasonably practicable, to ensure that there is sufficient accommodation for those children that meets their needs and is within their local authority area. The duty is supported by statutory guidance that the local authority must have regard to in its decision making in this context, issued under section 7 of the Local Authority Social Services Act 1970, which requires local authorities, in the exercise of their social services functions, to act under the general guidance of the Secretary of State; and section 10 (8) of the 2004 Children Act, which requires all local authorities in England and each of their relevant partners to have regard to guidance from the Secretary of State when exercising their functions in relation to their duty to co-operate to improve the wellbeing of children in the local area.

8.2 This decision proposes the commissioning of two, two bedroom residential care home places for children in care with diverse needs who face challenges in finding placements within standard residential services and the award of an associated contract on the basis of 5+2+2, with spend over the term of up to £18.72m with

block payment of £11.262m. It is proposed to procure the places through a call for competition before awarding a call off contract from the D2N2 Children in Care Framework Agreement.

- 8.3 Nottinghamshire County Council have on behalf of Derbyshire County Council, Derby City Council, Nottingham City and Nottinghamshire County Council, (hence forth referred to as D2N2), completed a hybrid Framework to provide independent Fostering and Residential Homes Placements provision, including where required out of D2N2 boundary placements. Services that will be purchased under the Framework by D2N2 will include individualised packages to meet the needs of the children and young people, and include Emergency, Planned, Short term, Long term, Permanent, Sibling, Solo, Respite, Parent and baby, and Remand Placements.
- 8.4 The Framework will remain open for new tenders for the duration of its operation. The providers being sought are on Lot 1: Independent Residential Children's Homes, that includes Standard Children's and Specialist Homes. In order to address some of the shortcomings of previous frameworks, providers were asked to self-select if they are prepared to accept referrals for (i) Emergency Placements, (ii) Provision within the D2N2 footprint and (iii) Outside the D2N2 area. This enables referrals to be limited to only those Providers by specific Lots and their own preference. The list of preferences will be refined over the life of the Framework. The Framework has also been designed to enable the D2N2 group the ability to conduct other further competition processes, that could include Block arrangements, either collaboratively or as individual Authorities. The Framework has been established with an initial duration of four-years, but the option to extend for a further two years which has been enacted. The framework runs until 2026.
- 8.5 By contrast, the PCR 2015 do not stipulate the duration of a specific contract awarded under a framework agreement. Contracting authorities are entitled to place orders for specific contracts at any point up to the end of the Framework agreement, which means that a specific contract can extend beyond the lifespan of the framework arrangement. However, contracting authorities should not seek to avoid the need to run a new procurement exercise through the award of specific contracts close to or at the end of the framework term. Specific contracts awarded at the end of the framework that have a disproportionate duration may amount to an abuse of the PCR 2015 and a distortion of competition.
- 8.6 It is arguable that the term of a specific contract can exceed the framework agreement period provided that awarding contracts of such a duration is within the normal course of awarding contracts and not an attempt to avoid having to run a new procurement.
- 8.7 As a contracting authority considering awarding a specific contract for an extended period it should prepare a robust justification to counter any claim that it constitutes an abuse of the PCR 2015.
- 8.8 For the reasons outlined in the report the Local Authority will satisfy its best value duty; achieve the efficiencies detailed in this report, and ensure compliance with the relevant Contract Procedure Rules, when utilising the framework, subject to the aforementioned robust justification in contract length being covered. Market competition will enable commissioners to be assured of the efficiency and effectiveness of services. The Framework will give the flexibility of spot purchasing but generally with lower costs and greater market management potential. This type of procurement mechanism is appropriate in the majority of cases.

- 8.9 Legal services will support the service area throughout the process but the call contract should ensure effective provider performance management based on the needs and specific outcomes described in a relevant child's individual assessment.
- 8.10 The proposals in this report otherwise raise no significant legal issues and are supported.

Richard Bines, Solicitor, Contracts & Commercial Team - 13.08.2024

9. Other relevant comments

Procurement

- 9.1 This decision proposes the commissioning of 2 block contracted residential care homes care for children in care with diverse needs who face challenges in finding placements within standard residential services. It is proposed to procure 2 x 2 bed homes through a competitive call off from an existing framework of residential care providers which is available for use by D2N2 authorities.
- 9.2 Commissioning these services on a block basis will increase the availability of regulated provision with experienced providers and reduce the reliance on spot contracting. It should help reduce the reliance on additional staff and enable some children to share in the longer term. It is intended to undertake an open tender for more block contracted beds later in 2024, and the proposed call off from the D2N2 framework offers an interim solution to relieve current pressures.
- 9.3 Procuring through block contract arrangements will secure discounted rates compared with individual placements under the framework and should make significant savings on the alternative of spot contracting with unregulated services. The maximum price for each 2-bed home will be capped and the competition of the call off will incentivise the best prices. Best value will be secured through maximising the utilisation of the units, particularly with dual occupancy which has potential to realise the greatest savings. For savings to be maximised it is important that the utilisation targets are met throughout the contract.
- 9.4 The Procurement Team will support a compliant call off tender process.

Jo Pettifor, Category Manager – 8 August 2024

10. Crime and Disorder Implications (If Applicable)

- 10.1 N/A

11. Social value considerations

- 11.1 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.
- 11.2 Improved local health outcomes contribute to socio-economic factors such as healthy life expectancy, employment and local economic development.
- 11.3 The service will provide employment for local people as it will be delivered within, or within 20 miles of, Nottingham City.

12. Regard to the NHS Constitution (If Applicable)

12.1 N/A

13. Equality Impact Assessment (EIA)

13.1 An EIA is not required because there is an existing EIA for the framework as a whole so one has not been undertaken for this specific call off.

14. Data Protection Impact Assessment (DPIA)

14.1 A DPIA is not required because there is an existing DPIA for the framework as a whole so one has not been undertaken for this specific call off.

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not required because the service will not have a significant impact on climate for any area of Nottingham due to the small scale of the service (2x2 bed homes). It is expected that the potential provider will be utilising property already designated as a children's home or retro fitting an existing building.

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 None.