

EXECUTIVE BOARD COMMISSIONING SUB-COMMITTEE – 16th April 2014

Subject:	Provision of assessments for prospective adopters and foster carers		
Corporate Director(s)/ Director(s):	Alison Michalska – Corporate Director – Children and Families Candida Brudenell – Director of Quality and Commissioning		
Portfolio Holder(s):	Councillor Mellen		
Report author and contact details:	Simon Down – Lead Commissioning Manager – 0115 876 3492 simon.down@nottinghamcity.gov.uk Laura Shepherd – Commissioning Manager – 0115 876 3456 laura.shepherd@nottinghamcity.gov.uk		
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 £1,000,000 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
Total value of the decision: £1.200m (approx)			
Wards affected: All		Date of consultation with Portfolio Holder(s):	
Relevant Council Plan Strategic Priority:			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
The current contract for the provision of assessments for prospective foster carers and adopters is due to end in August 2014. This report seeks to ensure continued provision of this statutory function through the establishment of a framework for assessments (to be effective from August 2014 to take on all new assessments) and the extension of the existing contract to continue to undertake, until completion, all assessments that are already started prior to August 2014.			
Exempt information:			
State 'None' or complete the following.			
Elements of this report are exempt from publication under paragraph 3 and paragraph 5 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial or business affairs of particular persons (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings 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: to make available to other organisations the contract values of existing contracts which are planned to be market tested would prejudice the open tender process and due to legal privilege.			
Recommendation(s):			
1. To commission a service to deliver adoption and fostering assessments (including connected persons and special guardianships) to replace the outgoing provision			
2. To proceed with procurement to establish a framework contract for Adoption and Fostering			

Assessment service for a period of 3 years at a value of approximately £1.200m

3. Approval to delegate authority to the Director of Quality and Commissioning to award the outcome of the tender and for the Head of Service for Quality & Commissioning to sign the contracts.

4. Approval for dispensation from the provisions of the Nottingham City Council Contract Procedure Rules 5.1.2 under the Council's Financial Regulations 3.29 in order to extend the current contract with Social Work Choices for 6 months from the start of August 2014 to the end of January 2015 to complete all assessments commenced prior to August. Any call off assessments that are not fully completed by the end of January 2015 will be seen through to completion by the provider.

1 REASONS FOR RECOMMENDATIONS

- 1.1 The current contract for the provision of assessments for prospective foster carers and adopters is due to end in August 2014. This contract (with Social Work Choices) was set up as a 3 year pilot and so a value for money/commissioning review of the pilot and potential ways forward was undertaken and presented to Corporate Parenting Board. This has led to the conclusion that a framework needs to be put in place to replace the outgoing provision. A competitive tendering process is now required to ensure continued provision of this statutory function.
- 1.2 Appendix 1 details the 2 stage procurement timetable which will ensure that the new provision is in place for the start of August 2014. The stated timescales will require the Director of Quality and Commissioning to sign off the award of the contract once all bids have been properly assessed.
- 1.3 Delegated authority is required to action the decision in a timely manner
- 1.4 The assessment process takes a maximum of 6 months and new assessments start on a weekly basis. It would be most disruptive to the assessment process and not in the best interests of NCC, those being assessed or children in care therefore, if Social Work Choices (SWC – the current provider) were not allowed to see the assessments they had started through to completion. As such, SWC's contract needs to be extended for a further 6 months up until the end of January 2015 to enable them to wind the service down and complete all their assessments.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Nottingham City Council (NCC) are required by law to carry out assessments of people who formally express a desire to foster or adopt so as to ascertain whether or not they are suitable to look after children/young people. These assessments must be carried out within specific timescales and failure to do so carries serious sanctions, including the threat of responsibility for these functions being entirely removed from the Council by central Government.
- 2.2 When the original pilot was set up with Social Work Choices in 2011 to deliver adoption and fostering assessments, it was agreed that a value for money (VFM) evaluation (including extensive consultation with internal and external stakeholders and the current provider) would take place to assess this new way of delivering assessments in Nottingham. The VFM evaluation found that "this contract has provided a cheaper solution (in comparison to internal delivery) to delivering assessments for prospective adoptive parents and foster carers."

- 2.3 The VFM evaluation also found, however, that “both parties, largely because of the initial contract specification, compromise the quality of assessment delivery. A performance framework over arching the whole contract to provide clarity for both the client and the contractor on what is expected throughout the duration of the contract period would be essential in any contract going forward”.
- 2.4 The broad conclusion, therefore, is that a contracted external model of provision provides a value for money solution provided that it is carefully contract managed against a comprehensive specification.
- 2.5 The current contract was produced and managed by the Fostering and Adoption team who are not best placed to create service specifications/manage the contract as they need to have an operational (rather than a contract management) relationship with the provider. The new contract however, will be produced and performance managed by Quality and Commissioning (in partnership with the Fostering and Adoption team) who are best placed to do this.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 As part of the VFM evaluation a number of other options to internalise this provision were considered and presented to the Corporate Parenting Board (CPB) in January. CPB were clear that, despite the merits of some of the internal options, the clear financial benefits of the externalised option (as above) meant that we should fully explore this first.
- 3.2 Bring the service in-house remain as a potential option for future years (subject to further development) as wider strategic changes are made to our fostering and adoption services.
- 3.3 The “nil business” nature of the framework will ensure that it can adjust to wider strategic changes that occur during its lifetime, and ultimately be entirely phased out should the decision ever be taken to move to a model of internal provision.

4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

- 4.1 The current contract is deemed to be below the market rate so it is likely that the unit cost will increase. The increase in quality control required within the contract and the “nil business” nature of the framework are also likely drive costs upwards. Minimum levels of business could be committed to but this would be at the expense of having a flexible service that can easily respond to strategic changes. Current strategic work is considering the extent to which we should seek to recruit/assess our own foster carers and how much we should rely on external fostering agencies.
- 4.2 Spend on assessments has been rising over the last few years in line with increases in the number of children in care. Starting at £0.225m in 11/12 it has risen to £0.267m in 12/13 with a projected spend this year (13/14) of over £0.275m (overspending the budget of £0.242m). The budget for 14/15 is yet to be set but, as the number of children in care continues to rise, an increasing number of foster carers and adopters will need to be recruited each year (subject to the strategic considerations mentioned in 3.1.2 and 4.1.1).

- 4.3 Whilst overspending on a budget is never ideal, overspending on the assessment budget is likely to suppress wider children in care costs to a greater amount within the same or next financial year through children being adopted and through reduced fostering costs.
- 4.4 Given the variation in budget year on year, the drive to do more assessments and the as yet unknown new unit cost, it is difficult to predict what the budget should be for 14/15 and beyond. Having carried out regression analysis (based on the spend/predicted spend figures in 4.1.2) and applied a percentage increase based upon the difference between our current unit cost and the unit cost recently secured by Leicester through the open market for a similar service an average cost over the next 3 years of around £0.400m pa is a reasonable estimate.
- 4.5 The extension of the existing contract will be to complete work that would otherwise had to have been transferred to the new provider so we are not duplicating service provision but in fact keeping some of our assessment costs lower than they would otherwise be for a 6 month period (though some re-negotiation on costs for the extension period are likely to be required).
- 4.6 *Comments from finance*

5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

- 5.1. This report and its recommendations will ensure the continuation of fostering and adoption assessments, hence managing the risk of assessments not happening when the current contract ends. The procurement timescales are tight but this process will be closely managed to ensure against slippage.
- 5.2 This report does not raise any crime and disorder implications
- 5.3 The outgoing provider will need careful managing to ensure that the quality of their assessment work is maintained throughout the extension of their contract

Legal Comments (employment law)

- 5.4 With regard to the service currently provided by Social Work Choices, it is understood that Social Work Choices currently provide assessment services to 6 local authorities including Nottingham City Council. It is further understood that the assessment work is carried out by sessional workers on a case by case basis with no obligation to offer work and no obligation to accept work when offered. These sessional workers can carry out work across a variety of local authorities and many have substantive posts elsewhere. On the basis of this limited information, it seems unlikely that the proposal to commission a service to deliver adoption and fostering assessments will result in the TUPE transfer of individuals currently engaged by Social Work Choices.
- 5.5 The advice at 5.4 above is provided on the basis that the commissioning process will be limited to the service currently carried out by Social Work Choices. If the commissioning process includes any function currently carried out in-house by Nottingham City Council, there would need to be further consideration of the potential for TUPE to apply to current Nottingham City Council staff together with relevant assessments of pension implications (including the requirement (under the *Best Value Authorities Staff Transfers (Pensions) Direction 2007*) to require an incoming contractor to provide transferring employees with access to a

pension scheme that acquires pension benefits that are the same as or broadly comparable to those that they would acquire in the Local Government Pension ('LGPS'). In such situations, contractors ordinarily opt for LGPS, thus resulting in extra cost implications including:

- Amended employer and employee contributions to the scheme which might be higher than contribution rates currently paid by the Council;
- The requirement on the Council to make good any deficit on exit arising from poor performance in the fund's investments or an insufficient employer's contribution rate; and
- The cost incurred by the contractor in securing a bond or guarantee to cover the risk of its insolvency (if the Council deems it necessary following a risk assessment).

Legal comments (contracting and procurement)

5.6 [TO BE INSERTED]

6 SOCIAL VALUE CONSIDERATIONS

6.1 This report and its recommendations have considerable social value as they better allow us to recruit local foster carers and adopters. Many foster carers consider the role as their job and so it will enable a positive impact on the local economy.

7 REGARD TO THE NHS CONSTITUTION

7.1 None

8 EQUALITY IMPACT ASSESSMENT (EIA)

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in any attached EIA.

9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

9.1 "Value for money review of commissioned service assessments of fostering applicants and adopters" – Exempt CPB paper 20th January 2014.

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

10.1 None

11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT

Legal comments (employment law) provided by John Bernard-Carlin (Team Leader
(Housing, Employment & Education Team (Legal Services))

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