

**COMMISSIONING AND PROCUREMENT SUB-COMMITTEE/STRATEGIC
REGENERATION COMMITTEE – 11/06/19**

Subject:	Procurement of fostering and children's residential placements for children in care.		
Corporate Director(s)/ Director(s):	Alison Michalska, Corporate Director for Children and Adults Candida Brudenell, Corporate Director for Strategy and Resources		
Portfolio Holder(s):	Cllr Cheryl Barnard, Portfolio Holder for Children & Young People		
Report author and contact details:	Michael Rowley, Lead Contracts and Market Development Officer, Children's Placement Service.		
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: up to £150,000,000 potential across 4 (+2) year framework			
Wards affected: All	Date of consultation with Portfolio Holder(s): 9 th May (Cllr Mellen, Portfolio Holder at that time)		
Relevant Council Plan Key Theme:			
Strategic Regeneration and Development			<input type="checkbox"/>
Schools			<input type="checkbox"/>
Planning and Housing			<input type="checkbox"/>
Community Services			<input type="checkbox"/>
Energy, Sustainability and Customer			<input type="checkbox"/>
Jobs, Growth and Transport			<input type="checkbox"/>
Adults, Health and Community Sector			<input type="checkbox"/>
Children, Early Intervention and Early Years			<input checked="" type="checkbox"/>
Leisure and Culture			<input type="checkbox"/>
Resources and Neighbourhood Regeneration			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>NCC Children's Placements Service currently buys independent fostering and residential services for children in care via the East Midlands Regional Children's Framework (EMRCF); and has done so since the first iteration of this framework was procured in 2011.</p> <p>We have a legal duty to provide sufficient appropriate fostering and residential placements for our children in care, and to do this we need to supplement our internal fostering and residential services with those provided by the external market.</p> <p>The EMRCF expires on 31st January 2020 and a new arrangement will be required from 1st February. The new contract and purchasing mechanism should deliver good quality, and sufficient, placements for our children and young people in care, whilst representing value for money.</p>			
Exempt information:			
State 'None' or complete the following.			
None.			

Recommendation(s):
<p>1 Approval to procure a framework for the provision of independent fostering in partnership with the D2N2 councils, with procurement carried out by Nottinghamshire County Council</p>
<p>2 Approval to procure a framework for the provision of independent children's homes in partnership with the D2N2 councils, with procurement carried out by Nottinghamshire County Council</p>
<p>3 To delegate authority to the Director of Children's Integrated Services to approve the outcome of the tenders (in partnership with the D2N2 Councils) and award contracts to secure best value, in consultation with Portfolio Holder for Early Intervention & Early Years</p>
<p>4 To delegate authority to the Head of Contracting and Procurement to sign contracts arising from the tender process once the tender outcome is agreed</p>
<p>5 To delegate authority to the Head of Contracting and Procurement to sign any inter Local Authority partnership agreement that may be required to set out the legally binding relationship and inter-dependencies between NCC, Derby City, Derbyshire County and Nottinghamshire County Council.</p>
<p>6 To approve the maximum expenditure from the Children's Placement Service budget in line with the predicted amount noted under total value of decision, which is based on 18/19 prices <i>Note: The commitment of expenditure on placements made under these contracts is approved under the Councils Constitution Part 2 – Responsibility for Functions, Section 9 – Scheme of Delegation, reference 274(a).</i></p>

1 REASONS FOR RECOMMENDATIONS

- 1.1 The EMRCF expires in January 2020 and a new arrangement will be required, as NCC has a statutory duty to provide appropriate placements for children in care.
- 1.2 The D2N2 councils all experience the same shortages of both fostering and residential placements that meet the specific needs of some of our most vulnerable children and young people, and whilst the EMRCF has provided a mechanism to purchase a high volume of placements, it has not developed the regional market in line with the emerging needs of our children and young people.
- 1.3 NCC Children's Placement Service, and those in the other D2N2 councils wish to engage with the market in a more collaborative way, asking for more flexible and bespoke solutions to meet the needs of our more complex children and young people.
- 1.4 Operating frameworks over the smaller, sub-regional geography will allow us to develop the market over time, running subsequent procurement exercises to contract with providers to deliver against specific needs. These frameworks

will allow us to work more closely with those providers that are ready to align their business development plans with meeting the needs of D2N2 children in care. This could represent a significant change in the way we work with the external market for fostering and residential care, and could prove a much more effective way to meet the needs of our more complex children and young people.

- 1.5 By operating our frameworks within the D2N2 footprint we aim to place an ever increasing proportion of our children and young people in 'local' fostering and residential placements (in this context local is accepted as being within 20 miles of Nottingham city centre). Over time we will work towards our aim of placing all NCC children in care within the D2N2 footprint, unless specific care plans require a young person to take a placement outside of that area.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The current EMRCF for Looked After Children placed in Independent Foster Care and Residential Care has provided a structure for the commissioning of external placements for Looked After Children in Nottingham City since April 2011. This has supported the Children's Placement Service in sourcing appropriate placements, taking into account quality, price, location and children's individual needs. However over the last two years there has been an increasing need to source placements off-framework, and the interaction between NCC and the providers on the framework has become less collaborative.
- 2.2 On 31st March 2019 we had 456 children and young people in foster care, of which 221 (approximately 49%) were placed with foster families in the independent sector (via Fostering Agencies). We also had 61 young people in external residential placements, including parent and child assessment centres and welfare secure placements.
- 2.2 The Children's Placement Services in all four of the D2N2 councils have developed close working relationships during the course of the EMRCF and other sub-regional partnership work. It is our belief that a geographically smaller framework will bring additional benefits to those the EMRCF has delivered, and will also provide a strong opportunity to do things differently, more collaboratively.
- 2.3 Commissioners held a market engagement event on 14th February 2019 and feedback at this event demonstrated that there is an appetite amongst the fostering agencies and children's home providers for a more collaborative partnership approach to the commissioning of children's placements. Furthermore there were a number of providers, including those based locally, that were very enthusiastic about the proposed approach and who confirmed that this direction of travel is more likely to enable them to prioritise D2N2 referrals than the approach of the previous frameworks.
- 2.4 Consultation and engagement is taking place with children and young people via the Children in Care Council – both at NCC and the other D2N2 councils. An initial session was held on 25th March and follow-up consultations will take place on 29th April and 24th June 2019. Our aim is to have the young people draft or at least steer the focus of a question for providers that forms part of the tender process.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 NCC could commission fostering and residential placements as a single council either via framework contracts or spot-contracting but this would reduce the influence we have over sufficiency, quality and price.

4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 The Council's external gross spend in 2018/19 for external residential and fostering placements was £21m, excluding semi-independent and remand placements. This spend will vary depending on activity levels and placement costs.
- 4.2 As detailed in sections 1.3 – 1.5, the proposed process will be the procurement mechanism for external residential and fostering provision in Nottingham City, Nottinghamshire County, Derby City and Derbyshire County. On this basis no further approval or dispensation from Contract Rules within the Council's Financial Regulations is required as this decision is deemed nil value as approval to spend on care placements is covered within the Council's Scheme of Delegation.
- 4.3 Whilst this contractual arrangement aims to offer a more flexible approach to ensure the needs of our more complex young people are met, it carries no guarantee of work and the approval to spend will be given through established mechanisms that exist within Children's Social Care for each package ensuring value for money (VfM).

Christine Green, Strategic Finance Business Partner – Childrens & Education, 22nd May 2019.

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 This report does not raise any significant legal issues. The procurement of this type of service is governed by the 'light touch' regime in the Public Contracts Regulations 2015. This gives greater freedom to the Council partners to design a contractual 'framework' that can provide flexibility when looking to place children with providers.
- Recommendation 5 refers to an inter-authority agreement between the partners. If this is simply to regulate use of the framework then this should be a straightforward agreement. However, it could go further and set out contract management and monitoring roles of the parties.
- It is understood that the purpose of the note at Recommendation 6 is to confirm that there is already in place in accordance with the City Council's scheme of delegation (at para 274(a)) authority to place children with providers under framework contracts. The Legal Services Team will assist the procurement and commissioning teams with the contracts involved in this project.

Andrew James Team Leader Commercial, Employment and Education 23rd May 2019.

5.2 Procurement Comments

The proposed procurement of a framework for the provision of independent fostering and residential services for children in care is to be undertaken in partnership with other D2N2 Councils of Derby City, Derbyshire County and Nottinghamshire County Council. It will enable continuity of service provision through a compliant contract arrangement when the current regional framework expires in January 2020. The tender process will be led by Nottinghamshire County Council and will be in accordance with EU and UK procurement regulations. Therefore, the recommendations in this report are supported from a procurement perspective and the Procurement Team will engage with the D2N2 partners and provide support for the procurement process as required.

Jo Pettifor, Category Manager – Strategy and People, 30th April 2019.

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE (STRATEGIC REGENERATION COMMITTEE REPORTS ONLY)

6.1 N/a

7 SOCIAL VALUE CONSIDERATIONS

7.1 Consideration has been given to how the services being commissioned could improve economic, social and environmental well-being in Nottingham. By virtue of the type of services being commissioned, social improvements are expected to be delivered, particularly for the children and young people receiving the services, but also for the wider economic well-being of Nottingham.

7.2 It is anticipated that improved outcomes for Nottingham's Looked After population will be achieved by enabling an increased number of children and young people to remain living locally in high quality care provision.

7.3 There is potential to create increased employment opportunities for local citizens due to residential care provision either being established or expanding in the D2N2 area.

8 REGARD TO THE NHS CONSTITUTION

8.1 N/A

9 EQUALITY IMPACT ASSESSMENT (EIA)

9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because it is a statutory duty for the council to provide sufficient fostering and residential care placements for children in the care of the Local Authority. This has been done via the ERMCF since 2011 and the changes to the commissioning and contracting arrangements detailed in this report do not represent a change to the service provided to children and young people, other than to provide commissioners with an opportunity to improve the choice, quality of service and value for money.

Yes



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

10.1 None.

11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

11.1 None.