

Report to:	Cabinet	Date of Meeting:	9 th March 2017
Subject:	Purchasing of Residential and Fostering Placements for Children and Young People	Wards Affected:	All
Report of:	Head of Children's Social Care		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	No – Rule 27 approval given
Exempt/Confidential	No		

Purpose/Summary

The purpose of this report is to enable Cabinet to make decisions regarding current contractual arrangements and future procurement of Residential and Fostering placements for children and young people.

Recommendation(s)

Cabinet is recommended to:

1. Authorise continued use of the Regional Residential Framework Contract for a further 12 month period, from 1st April 2017 until 1st April 2018, as provided for within the original procurement exercise, for the procurement of residential placements.
2. Authorise participation in the regional Dynamic Purchasing Systems agreement as explained in paragraph 17, to be procured by STAR on behalf of all participating authorities, for future purchasing of residential placements from 1st October 2017.
3. Authorise continued use of the Regional Fostering Framework Contract for a further 12 month period, from 1st April 2017 until 1st April 2018, as provided for within the original procurement exercise, for the procurement of fostering placements.
4. Note the regional work to be undertaken in 2017/18, to determine the best approach for procuring Fostering placements from April 2018 and that a further report will be submitted to Cabinet in due course
5. Note that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children, Schools and Safeguarding) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the Council needs to make the above decisions prior to the next Cabinet meeting and unfortunately, collective agreement across the

collaborating authorities, on the approach to be taken in respect of the final year of the existing Frameworks and their replacement / re-procurement was only secured in the latter part of January 2017, providing a very short window for presenting this report to Cabinet for decision ahead of the start of 2017/18.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being	✓		
5	Children and Young People	✓		
6	Creating Safe Communities	✓		
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy	✓		

Reasons for the Recommendation:

Since April 2014, wherever possible, Fostering and Residential placements for children and young people have been procured through regional Framework Contracts.

When these regional Framework Contracts were originally entered into, they were entered into on the basis of a core contract period of 2 years with further optional extension periods of up to 2 years built in and anticipated at the outset as part of the life of the contract, provided that the quality/price of services/goods provided under the contract are of a satisfactory standard and exercising the extension is considered to represent best value for the Council. The purpose of building contracts around core and extension periods is to ensure that the quality of the contract is maintained throughout the life of the contract and to ensure that the Council, particularly at times of financial uncertainty has flexibility to bring contracts to a conclusion and/or is able to refine services and or goods received under the contract. The value of these contracts requires the extension to be authorised through Cabinet.

The current period of the Framework Contracts expires at the end of March 2017 and the Council needs to determine how it will procure any necessary Fostering and Residential placements for children and young people beyond that date. The current Framework Contracts include options for continued use for a further 12 month period, from 1st April 2017 to 31st March 2018.

It is being recommended that Sefton Council extends its use of the existing regional Residential Framework Contract, for a further twelve month period, whilst procurement of a suitable alternative (a regional Dynamic Purchasing System, DPS) is undertaken; and extends its use of the existing regional Fostering Framework Contract, for a further twelve

month period, whilst further work is undertaken to determine the most appropriate future approach, including monitoring the impact of procuring the DPS referred to above.

There are opportunities for new and innovative ways of procuring placements, but these have a mixed evidence base for efficacy in fostering and must be balanced against the risk of rising costs through a new tender. A regional task and finish group will be established to review the current arrangements, test alternative models and apply the learning from the residential retender to the fostering market, in order to confirm the best option from April 2018. A further report will be brought to Cabinet in due course. Whilst this work is underway, it is considered that continued use of the existing Frameworks provides the best value for money for Sefton Council, on the basis of securing placements within the current Framework prices, from known providers who have performed well over the period of the Framework.

These are important and costly services and the alternative options to the recommendations would be likely to incur greater cost and more variable quality, hence the need to determine the manner of purchasing these placements ahead of the next financial year. Unfortunately, collective agreement across the collaborating authorities, on the approach to be taken in respect of the final year of the existing Frameworks and their replacement / re-procurement was only secured in the latter part of January 2017, providing a very short window for presenting this report to Cabinet ahead of the start of 2017/18.

Alternative Options Considered and Rejected:

Instead of continuing to procure placements through the existing regional Framework Contracts and their replacements, the Council could carry out its own full EU compliant Tender exercise, adopt an alternative Framework, or "Spot Purchase" placements from the market as they are needed.

Undertaking a full EU compliant process alone is not recommended because: the time required to complete the process would be the same as procurement of a regional framework; in this market the Council is unlikely to obtain better prices than through collaborative procurement; and the burden and resource required to ensure quality and safety of provision would be increased, requiring additional resource.

An alternative Framework Agreement is not recommended as the strength of the current framework is that 23 authorities sign up to and use it. To procure as a single authority would disrupt the market, it is likely that providers would increase their prices and the burden and resource required to ensure quality and safety of provision would be increased, requiring additional resource. The prices available through the current Frameworks are competitive and/or better than prices within known alternative Frameworks

Spot purchasing is not recommended as it would increase costs and the burden and resource required to ensure quality and safety of provision would be increased, requiring additional resource.

What will it cost and how will it be financed?

(A) Revenue Costs

Based on current annual costs and number of placements, the anticipated costs for the extension period are as follows:

Regional framework for fostering placements	£3,318,149 per annum
Regional framework for residential placements	£2,993,503 per annum

Current budget values within Children's Social Care are:

Independent Foster Placements	£3,391,500
Residential Placements (excluding CWD)	£3,223,850

(B) Capital Costs

None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial The costs detailed within this report can be contained within the existing budget provision and do not represent an additional financial requirement
Legal The actions outlined in the report are compatible with the original procurement decisions and arrangements for both residential and foster placements. Future procurement arrangements will progress under the Dynamic Purchase System arrangements proposed for residential placements and will be the subject of a further report for Foster placements.
Human Resources
Equality 1. No Equality Implication <input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact of the Proposals on Service Delivery:

A regional sufficiency strategy and evaluation has been completed, by the North West Commissioning Managers group, which informed current understanding and future development. Continued use of the Frameworks in the short-term is considered to represent the best way to ensure necessary placements can be procured in support of service delivery. The development of a Regional Dynamic Purchasing System (DPS) from October 2017 will enable gaps identified within the sufficiency strategy to be better addressed.

What consultations have taken place on the proposals and when?

The Head of Regulation and Compliance has been consulted and comments have been incorporated into the report (LD 3827/17)

The Head of Corporate Resources has been consulted and any comments have been included in the report. (FD4544/17)

Consultation with providers has been completed as part of the ongoing provider forums and through bespoke events looking at future needs.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Background Papers:

None

Introduction/Background

1. Placements North West (PNW) is commissioned by a number of North West local authorities to coordinate and manage collaborative procurement in relation to placements for children and young people across those authorities. There are a number of collaborative procurement arrangements in place across the following geographical footprints:
 - Greater Manchester (Including Cheshire East)
 - Merseyside and Partners (Including LCR authorities, Cheshire East, Cheshire West and Chester, Wigan and Warrington)
 - Blackpool Framework (a single authority Framework)
 - Lancashire Framework (a single authority Framework)

In addition, Cumbria County Council and Blackburn with Darwen Council currently spot purchase placements.

2. The Greater Manchester and the Merseyside & Partners frameworks are similar models and are inter-operable, with users named on one framework able to use the other to secure placements out of area or at a distance.
3. In 2016–17 Sefton Council made 70 searches for placements using the regional Residential Framework and 102 searches using the regional Foster Framework.

Regional Residential Framework

4. The current Residential Framework was planned and produced in 2013/14; at this time there was a clear focus on the 'sufficiency duty' and authorities nationally were producing statements which were anticipated to drive work to deliver adequate provision for young people within local communities.
5. The Regional Residential Framework Contract is for the provision of Children's Residential Care Placements across 3 distinct Service Categories:-
 - Mainstream Residential Care
 - Complex and Additional Needs Residential Care
 - Short Break Placements Residential Care
6. The lead authority for this procurement exercise is Wigan Council, acting on behalf of the following participating authorities:
 - Cheshire East Council
 - Cheshire West and Chester Council
 - Halton Council
 - Knowsley Council
 - Liverpool Council
 - Sefton Council
 - St Helens Council
 - Warrington Council
 - Wigan Council
 - Wirral Council

7. This Framework can be accessed by local authorities from the Greater Manchester Councils, for placements outside of their geographical boundaries, and a reciprocal arrangement exists for the above authorities in respect of a comparable Greater Manchester Framework. The contract was for an initial set term of two years and included a provision that it could be extended for a further period up to two years until 1st April 2018.
8. The impact of the use of the framework and work undertaken, over the last 12 months in particular, by officers in the Commissioning Support team and Children's Social Care has been significant. This has enabled the average cost of placement to reduce by £378.84, realising an annual saving of £157,597.52 over 12 months for 8 placements. This would not be able to be managed without continued use of the framework.
9. The external market for residential services appears, on the surface, to be significantly oversupplied. There are 96 homes offering 297 beds in LCR which compares to just 144 placements made by LCR. The NW as a whole has a surplus of 839 beds. Despite this apparent abundance of capacity LAs are reporting significant challenges in securing suitable capacity.
10. Of the 304 beds operating in LCR in October 2015 only 80 were used by LCR authorities, meaning almost three quarters of the beds are used by other authorities or are stood vacant.
11. The registration status of private and voluntary children's homes located in LCR seem inconsistent with the reported needs of the local authorities. Only 1 in 10 homes is registered to meet the needs of young people with 'emotional and behavioural difficulties' and 3 for 'mental disorders'.
12. Analysis indicates that LCR is using a wide variety of providers to meet needs. Looking at the PNW census placement data in 2014 and 2015 there are only two organizations that had 5 or more active placements in both censuses.

LCR and the North West as a National Market

13. The significant surplus of residential provision in the North West is maintained by very high use of capacity by non-NW LAs. The market operated in the North West can, and has been, described as a 'National Resource' by providers. There are providers who have informally confirmed that their services are not primarily targeted at the local authorities in their locality. A NW provider confirmed that in July 2016 85% of their referrals were from LAs outside the NW.
14. The operation of a national market has the following impacts on NW LAs:
 - Providers have greater choice in which referrals to accept. There is the potential to offer higher prices to LAs placing from a greater distance with whom a contractual relationship is not established or a 'higher spot purchase price' is agreed. This can lead to NW LAs being 'outbid'.
 - Providers have indicated that the greater number of referrals mean they are able to take less complex placements, for which it is easier to report outcomes, increasing opportunities for future business.
 - Local Provision may not be tailored to service local needs if placements are primarily sourced from elsewhere.

- High volumes of inward placement impacts on universal and specialist services. One LA identified 28% of Youth Offending Team (YOT) time was spent meeting the needs of YP from outside the authority.
- Services which are of poor quality and are not used by the LA can be sustained by inward placement.

Residential Services which are hard to source:

15. Despite the surplus of external residential provision located within the North West and LCR, local authorities have been identifying challenges in securing sustainable, quality services for young people who present with the following needs and issues:
- Mental Health Issues (particularly those who have not met threshold but are on the cusp of Tier 4 services)
 - Violence towards staff (and others)
 - High numbers of placement breakdown
 - High levels of missing
 - Other factors: CSE, Substance Abuse, Arson, Criminal Behaviours, Autism

Factors Resulting in Market gaps within Residential provision

16. Initial engagement with providers has identified the following factors
- Regulator – Providers are reporting that they are unable or unwilling to take more complex placements as they feel Ofsted does not recognise the sometimes small improvements achievable. As such they feel taking a complex placement will lead to a lower Ofsted rating which represents a business risk. The regulator has recently published 'Myth Buster' Guides to challenge this perspective.
 - Incoming placements from outside of the NW – Providers can take alternative, less risky and more profitable placements from outside the region
 - Provider resilience – Providers being unable to meet the needs
 - Matching - Providers are unable to match more complex young people with existing population
 - Clinical / Therapeutic Models – A lack of a transparent and accountable implementation of clinically robust and evidence based therapeutic models in working with the most complex young people.

Addressing Existing Gaps through a Dynamic Purchasing System:

17. The use of a dynamic purchasing system allows for providers to enter the agreement during the lifetime of the contract, rather than holding a fixed list of approved providers, which may date. It can also support greater flexibility in purchasing such as block buying and inter-authority commissioning. Due to this flexibility it allows contracts to be awarded for 10 years, as a DPS does not commit local authorities to spend, meaning that there will be no need to continue to retender the Frameworks every 4 years. This would not however bind the authority to the full length of the DPS if it ceased to provide the best option. Procurement of the proposed DPS, for future purchasing of residential placements from 1st October 2017, would be led by STAR (the shared procurement service for Stockport, Trafford & Rochdale Councils) on behalf of all participating authorities.

Regional Fostering Framework

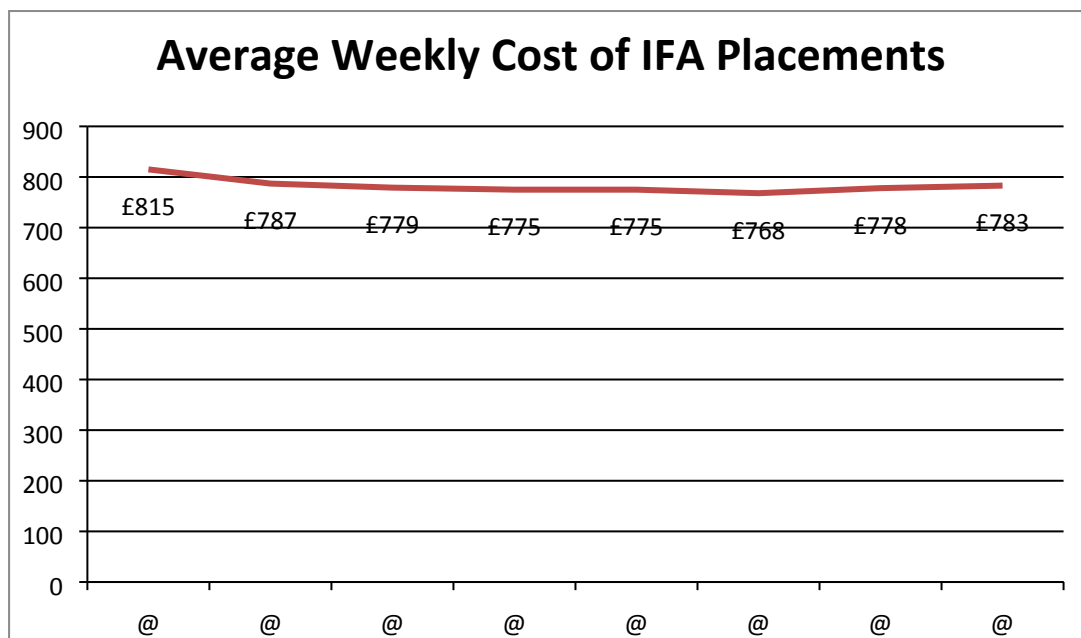
18. The North West (excluding Lancashire and Cumbria) has a shared regional framework for fostering placements. This is a well-established function first launched in 2010 and replaced on expiry in 2014. The current framework is for two years plus a further two options to extend annually to a maximum of four years, up to 31st March 2018. The current recommendation exercises the final opportunity to extend.

19. The lead authority for this procurement exercise is Manchester City Council procuring on behalf of all the contracted Local Authorities detailed below:

- Blackburn with Darwen Council
- Blackpool Council
- Bolton Metropolitan Borough Council
- Bury Metropolitan Borough Council
- Cheshire East Council
- Cheshire West and Chester Council
- Halton Borough Council
- Knowsley Metropolitan Borough Council
- Liverpool City Council
- Manchester City Council
- Oldham Metropolitan Borough Council
- Rochdale Metropolitan Borough Council
- Salford City Council
- Sefton Council
- St Helens Council
- Stockport Metropolitan Borough Council
- Tameside Metropolitan Borough Council
- Trafford Council
- Warrington Borough Council
- Wigan Metropolitan Borough Council
- Wirral Metropolitan Borough Council

Framework Usage: Independent foster Agency (IFA) cost 2009 to 2016

20. The regional Fostering Framework has ensured relative consistency in price since 2010 and the re-tender in 2014. Providers have to date largely maintained their initial tendered price since the launch of the framework, one provider has reduced costs in 2016 and one provider made an initial request for uplifts which was rejected.



Source: PNW Census 2009 to 2016

Framework Usage: Capacity

21. The framework continues to cover the vast majority of fostering placements made, with 94.4% of active placements since the launch of the framework made with contracted providers.
22. Despite LAs continuing to report, anecdotally, challenges in finding placements for more complex placements, there is no track record in the North West of providers opening up new services in response to this. This is likely to continue to be the case in fostering where there are time lags for regulation, development, recruitment and assessment. A new framework could not be assumed to address an existing capacity issues in and of itself however, developing new services is a function of market management that can be delivered within the life time of a framework.

Other Framework Models

23. Research undertaken as part of the regional sufficiency statement concluded there was not a viable alternative model which had identified greater savings. There is no new information which changes this conclusion.
24. Further analysis of the Lancashire framework using 2016 data indicates that the alternative model has not delivered different prices, with Lancashire's average cost of placements consistent with the NW average.
25. The more flexible procurement rules introduced in 2015 do, however, allow for more creative approaches for purchasing. In particular this opens the opportunity, which is currently being developed in the residential re-tender, for flexible bulk purchases. The only examples PNW is aware of for bulk purchasing in fostering is Rochdale pre 2010 and Southampton circa 2012, which were reportedly not cheaper than framework prices, so do not create a compelling reason for retender, but the residential model does create a space to test this new way of working and develop learning which can be brought across if appropriate.

Proposed approach to future collaborative procurement of fostering placements:

26. The average cost for fostering in 2016 is lower than the pre-framework prices reported in 2009. There have been no price rises since the launch of the framework in 2014, and a single provider has lowered its prices to become more competitive
27. There are a number of price pressures on the market, including:
 - limited increase in prices increases since 2009
 - The growth in usage which has offset some of the flattened fees
 - Potential merger of two of the largest three providers
 - Living Wage
 - Potential uncertainty of future economic conditions
28. There is considerable risk that if a new framework is procured, that providers will implement an increase in fees for new business.
29. Re-tendering will not significantly increase capacity of the framework. As with the 2010 framework there is evidence that providers can operate off contract successfully and new providers have opened despite the framework remaining in place, suggesting the framework is not a barrier to new entrants in the market.
30. There are opportunities for new and innovative ways of buying, but these have a mixed evidence base for efficacy in fostering and must be balanced against the risk of rising costs through a new tender. The new models will be tested in 2017/18 with the residential market which will bring learning to what has been a stable market. This is particularly important where these models could bring in risk to providers who could seek to mitigate with increased costs
31. The North West Commissioning Managers meeting of 17 January 2017 supported continued use of the Framework, to secure the current prices and capacity, and agreed to establish a Task and Finish group to:
 - review the current arrangements;
 - engage with providers to inform the shape of a future tender, and
 - explore the risks and rewards of new purchasing models, including applying the learning from the residential retender to the fostering market
32. This work would be based on reshaping the relationship and the purchasing arrangements with the market. This will lead to a proposal for retendering the framework in such a manner to mitigate risks outlined above.