

Report to: Lead Member for Children and Families

Date of meeting: 26 September 2022

By: Director of Children's Services

Title: Independent Fostering Agency Placement Recommissioning

Purpose: This report outlines the recommissioning arrangements for the use of independent fostering agencies for Looked After Children (LAC).

RECOMMENDATIONS

The Lead Member is recommended to:

- 1. approve the re-commissioning of the provision of Independent Providers of Foster Care Services through a regional Approved List (which is a hybrid between a framework agreement and DPS agreement); and**
 - 2. delegate authority to the Assistant Director of Children's Social Care to award providers a place on the Approved List, including all future provider applications that pass the minimum criteria.**
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1 Background

- 1.1 Legislation requires Local Authorities to secure sufficient accommodation for Looked After Children (LAC), that meets their needs, and is within the local area wherever this is reasonably practicable. The Council acts as the Corporate Parent for LAC and is responsible for the provision of suitable placement options.
- 1.2 The current number of foster care placements in the independent sector and those directly controlled by the Council are shown below:

Independent Sector Placements		Council Placements	
Independent Fostering Agencies	94	In-house Foster Care	413

- 1.3 There continues to be a need to purchase foster care placements in the independent sector, and a compliant means of procuring these services is required.

2 Supporting information

- 2.1 ESCC led the commissioning of a joint framework agreement with Brighton & Hove City Council (BHCC) for the provision of independent foster care placements which commenced on 1 April 2017 and is due to expire on 31 March 2023. This was a framework agreement which re-opened for new applications after two years in 2019, and then again after four years in 2021.

- 2.2 In order to comply with the Public Contracts Regulations 2015 and the Council's internal Procurement and Contract Standing Orders, a formal tendering process must take place to procure the new Approved List (hybrid between a framework agreement and DPS agreement). In this report, 'Approved List' is used to describe an agreement between one or more contracting authorities and one or more economic operators which has been procured under the Light Touch Regime of the Public Contracts Regulations 2015. The purpose of which is to establish the terms governing contracts to be awarded during a given period. This is similar to a framework agreement under the Public Contracts Regulations 2015 but would benefit from some elements of a DPS agreement (such as the fact that it shall reopen for new applications on its second and fourth anniversary), and shall have an optional extension period of two further years meaning a total potential contract period of 6 years.
- 2.3 The use of an Approved List agreement is beneficial in that it allows the Council to 'call-off' contracts at short notice. Such a process would reduce the administrative burden and subsequent costs. Using an Approved List also takes advantage of the Light Touch Regime under the Public Contracts Regulations 2015 which enables the term length to be varied and offer the opportunity for multiple opening periods during the life of the Approved List. Approved Lists are currently used successfully by the Council for foster care, residential care, home care and supported accommodation.
- 2.4 A procurement timetable has been drawn up to enable the Council to meet the expiry deadline of the current framework agreement (see Appendix 1). A comprehensive specification is being drafted to accompany the Invitation to Tender. This will be based on the National Contract, which is a set of default standard terms used by providers and Local Authorities. This is varied according to local need and includes the NEF Outcomes Framework. There are also requirements relating to sustainability and social value.
- 2.5 It is important throughout the procurement process that the Council achieves value for money as well as having secure arrangements in place for those children requiring placements. A sound, robust purchasing and contract management system such as this would enable the Council to pro-actively manage the market and ensure best value for money is achieved.
- 2.6 The award of an Approved List itself has no financial value. However, the total current value of the contracts that would be called off by the Council under an Approved List is approximately £5,110,876 per year for ESCC and £5,600,000 for BHCC.
- 2.7 An alternative to the use of a regional Approved List would be for the Council to procure these services independently. Tendering as a sole Local Authority however, reduces the potential for sharing costs, exercising leverage and influencing in the provider market.
- 2.8 Equally, joining a Local Authority partnership outside of the Southeast region is unlikely to achieve the same level of benefits as the contract management and quality assurance functions would not operate as efficiently. Many Independent Fostering Agencies are regionally based with different Ofsted registrations for different regions.

3. National Care Review

- 3.1 The Independent Review of Children's Social Care by Josh MacAlister was published in May 2022. The review includes a recommendation to establish of up to 20 Regional Care Cooperatives, owned and managed by Local Authorities. These would be responsible for the commissioning and management of all children's placements.
- 3.2 It is not clear at this stage whether this recommendation will be taken forward, and if so, in what timescale. However, most Local Authorities are already part of joint commissioning arrangements for procuring children's social care placements but retain their own brokerage (placement finding) teams.

4. Conclusion and reasons for recommendations

- 4.1 It is necessary to re-tender these services as the current framework agreement for foster care placements will expire on 31 March 2023. In order to benefit from collaborative working with regional partners, and to build in sufficient time to carry out a fair and transparent procurement process, the process must commence as soon as possible.
- 4.2 Regional joint commissioning and procurement is considered to provide the best placement choice and value for money for these services. This is further supported by WSCC asking to be named as an additional contracting authority on the Approved List.

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LOCAL MEMBERS

Independent Fostering Agencies operate across the whole of ESCC therefore all electoral divisions will be affected by the report.

Appendix 1

Indicative Timetable

Fostercare Approved List

Milestone	Dates
Complete DPIA	by 30/09/2022
Complete EIA	by 30/09/2022
ESCC Lead member sign off	by 30/09/2022
Draft Specifications ready for market engagement	n/a
Market Engagement (RFI)	26/09/2022
Prepare Contract & Application Documents (contract, , specification, Application etc.) with legal input and review	01/07/2022 - 12/10/2022
PAB approval gained	25/07/2022
Children, Young People & Skills Committee approval gained	15/11/2022
Complete final draft of documents for review by legal	12/10/2022
Legal final contract and docs confirmed	16/11/2022
FTS Notice (formerly OJEU)	30/11/2022
Issue ITT	30/11/2022
Deadline for clarification questions	03/01/2023
Final Response to clarification questions	05/01/2023
Applications returned	11/01/2023
Selection stage evaluation (including Financial Appraisal)	12/01/2023-26/01/2023
Bid Evaluation (SV pass fail)	26/01/2023-2/02/2023
Financial Evaluation of submissions	Not required if 100% quality
Final award recommendation	by 9/02/2023
DMT Approval & Procurement Report approval	by 01/03/2023(w/c 13/02/23 for approval request to go in)
Issue outcome letters/ confirm award	21/03/2023
draft contracts and issue	from 22/03/2023
Contract start date	01/04/2023