

Report to Cabinet Member for Children and Young People

February 2021

Procurement of a Framework Agreement for Family and Community Support for Children and Young People with Special Educational Needs and Disabilities

Report by Executive Director Children, Young People and Learning

Electoral divisions: All

Summary

The County Council has a statutory duty to provide a range of services to assist parents and carers of children and young people with disabilities and complex needs in ensuring appropriate and effective provision for the child or young person in their care. Where these needs impact significantly on daily life, it can be necessary to commission specialist support and care provision. These services are currently commissioned through the Supported Living and Family Support Services Framework (SLFSSF), which ends on 31st July 2021.

In order to ensure the continuation of services on conclusion of the existing Framework this report seeks approval to commence a procurement for the provision of Family and Community Support Services for Children and Young People with Special Educational Needs and Disabilities (SEND).

This will be achieved through the establishment of a new Framework Agreement for Family and Community Support (FACS) for Children and Young People with Special Educational Needs and Disabilities. The projected maximum cost of the Framework over its maximum length (8 years) is £4.3 million (based on the current spend with an estimated annual uplift of 2%).

Recommendations

The Cabinet Member for Children and Young People is asked to approve

- (1) The commencement of a procurement for a Framework Agreement for Family and Community Support for Children and Young People with Special Educational Needs and Disabilities for a duration of 4 years commencing in September 2021 with the option to extend for a further 4 years.
- (2) The transfer of any current contracted business commissioned through SLFSSF for children and young people to the new Framework.

- (3) The delegation of authority to the Executive Director Children, Young People and Learning to implement the Framework Agreement for the initial 4 year period and further extension periods as necessary.
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Proposal

1 Background and context

- 1.1 The County Council has a statutory duty to provide a range of services to assist parents and carers of disabled children and young people with complex needs in ensuring appropriate and effective provision for the child or young person in their care.
- 1.2 The Supported Living and Family Support Services Framework (SLFSSF) was introduced in April 2015 to develop the supported living market for all ages.
- 1.3 The planned introduction of providers that offered services to children and young people to the SLFSSF did not develop as intended. The market for this type of provision was not established and there was limited interest from providers in joining the Framework. Efforts to increase interest have not proved successful resulting in officers needing to commission the delivery of health and social services via individual purchase orders, from over 60 providers, which is not an efficient use of resources. For these reasons, it has been decided that a Framework Agreement specifically for children and young people with SEND is needed.
- 1.4 The Children with Disabilities Service (including CHOICE) is a county-wide service that offers a specialist statutory social work service for children with disabilities and complex needs, where these needs impact significantly on daily activities, family relationships, education, safety and independence. They aim to help children and young people with disabilities to lead safe, independent and fulfilled lives, through provision of advice, support, care and protection. Setting up the Framework will enable a wider choice of services for the Children with Disabilities Service to access for the children they support alongside Assistive Technology, Personal Assistants and Short Breaks services.

2 Proposal details

- 2.1 The establishment of the new Framework (FACS) will:
- increase market capacity to provide more family support and care services;
 - procure services that support children and young people and their families to build resilience and maximise opportunities to develop independence and life skills;
 - align service models to ensure effective transition to adulthood for the 16 to 25 year old age group;
 - specify clearly the service models of care and support packages to be provided to children and young people and their families and ensure the Local Authority is compliant to all aspects of the Children and Families Act 2014;

- help relieve budget pressures by ensuring the best value for money options are available to the Council;
 - provide cost-effective, community-based support packages to maintain children and young people within their families and local communities and prevent the need for more specialist provision
- 2.2 The proposed length of the Framework Agreement is 4 years plus a maximum of 4 years extension to align with the new Adults' Supported Living Framework; this will enable young people to transition to support services commissioned through this contract.
 - 2.3 The Framework will be open so that new providers can join at any time. All providers, whenever they join, will go through the same evaluation process to assess their suitability for admission to the Framework.
 - 2.4 There will be two Lots that providers can apply to offer services for Standard Care and Support and Enhanced Care and Support. A pre-agreed pricing structure will commit providers to maintain their maximum prices across the term of the contracts.
 - 2.5 When a service for a child or young person is required a suitable provider will be obtained through running a mini-competition process in accordance with the terms of the Framework Agreement.
 - 2.6 It is proposed to seek authority from the Cabinet Member to delegate authority to the Executive Director Children, Young People and Learning to implement the Framework which will be the subject of a further key decision as appropriate.
 - 2.7 Any existing individual contracts on the SLFSSF will be transferred to the new Framework. The terms and conditions of the Framework will apply to these contracts from the date of transfer. Any continuing service provision in the intervening period will continue on a formally agreed individual basis.
 - 2.8 The Framework Agreement will be managed and overseen by the Children's Services' SEND Commissioning Team.

3 Other options considered (and reasons for not proposing)

- 3.1. Option 1: Do Nothing – Rejected. Off-Framework spend would continue, resulting in poor value for money and limited opportunities for quality monitoring or efficiency in delivering services for children and young people with SEND.
- 3.2. Option 2: Join an existing framework managed by another local authority – Rejected. Research has shown that there are currently no suitable existing frameworks in place that will enable the Council to specify the providers and models of delivery required.
- 3.3. Option 3: Procure a number of Block Contracts for particular services – Rejected. Future demands and specific individual requirements are too varied and uncertain for this approach.

4 Consultation, engagement and advice

- 4.1 A virtual Market Engagement Event was held on 9th December 2020. 54 organisations were invited. 17 providers attended, of which 13 were potential new providers, some of whom are already providing Short Breaks provision.
- 4.2 The West Sussex Parent Carer Forum has been contacted for feedback on proposed outcomes and their response is awaited.
- 4.3 The Framework Agreement is being developed by a Steering Group made up of key nominated colleagues from the Children with Disabilities Service, Finance, Legal, Procurement and Commissioning.

5 Finance

5.1 Revenue consequences

	Current Year 2020/21 £m	Year 2 2021/22 £m	Year 3 2022/23 £m	Year 4 2023/24 £m
Revenue budget (includes an estimated 2% per annum inflationary uplift)	0.492	0.502	0.512	0.522
Change from Proposal	0.000	0.000	0.000	0.000
Remaining budget	0.492	0.502	0.512	0.522

5.2 The effect of the proposal:

(a) **How the cost represents good value**

There will be a pre-agreed pricing structure that commits the providers to maintain their maximum prices across the term of the contract, but is reflective of the complexity and model of the support required. Quality monitoring will ensure that costs represents service value.

Final Price Submissions (mini-competition) will be requested from Providers on the Framework based on the Care Plan's individual requirements.

(b) **Future savings/efficiencies being delivered**

There is scope for future cost avoidance by commissioning family and community support services to allow children and young people to continue living at home, to prevent crises leading to more expensive residential provision.

(c) **Human Resources, IT and Assets Impact**

None.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
The redesign of the Framework is delayed.	Set and monitor a realistic timetable. Resource and Stakeholder mapping will avoid delays.
Providers fail to meet the standards required to secure a place on the Framework.	Ensure the key criteria required to be awarded a place onto the Framework are clear and succinct, that it will stress test the providers' technical ability and their financial stability.
The Contract award is challenged.	Procure in line with Council's standing orders and Public Contracts Regulations. Liaise with legal and corporate procurement departments at all stages and ensure documentation is kept.
An insufficient number of providers apply to the new Framework.	Market Engagement Event has generated interest in the opportunity.
Providers fail to meet the standards required during the course of the Contract.	If providers fail to meet the standards required an investigation will be undertaken and a remedy put in place. In serious breaches the Council may suspend or terminate the Contract.

7 Policy alignment and compliance

- 7.1 Legal implications: This Framework will allow the Council to discharge statutory duties described in the Children and Families Act 2014, Part 3, Section 19 – 'Local authority functions: supporting and involving children and young people'.
- 7.2 The Council is a Contracting Authority as defined in the Public Contract Regulations 2015 ("PCR") and as such is governed by those regulations. The value of the proposed contract will be £4.3m over the maximum period of 8 years (4 years with the facility to extend for a period or periods of up to 4 years).
- 7.3 The value of the proposed contract is therefore above the relevant UK Thresholds as referred to in the PCR of £663,540.00 for Social and other specific Services ("Light Touch Services").
- 7.4 As such the Council will competitively tender these services in accordance with the procedures set out in the PCR "Light Touch Regime" and will utilise the flexibilities afforded by this regime under Regulations 74 to 76 of the Public Contracts Regulations 2015 (as amended), including the ability for service providers to join the framework Agreement throughout the Agreement Term, an "open framework".
- 7.5 The Council will enter into a services contract using terms and conditions, approved by Commercial Legal Services and compliant with section 10 of the Council's Standing Orders on Procurement and Contracts.
- 7.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") are likely to apply to these services on the commencement of the contract.
- 7.7 There is no risk that this contract will be considered illegal state subsidy within the subsidy control requirements because the contract will be subject to a competitive tender thereby ensuring that the Council is not selectively granting an advantage to one particular economic operator over another.

- 7.8 Equality duty and human rights assessment: All West Sussex residents with assessed eligible social care needs have a right to have those needs met through the local authority. The proposals are developed in order to ensure that the Council can support this right. Providers will also be expected to have recruitment, retention and staff employment and management policies and procedures in place that adheres to equality and human rights legislation.
- 7.9 Climate Change: The County Council has committed to be net carbon zero by 2030 and is taking action to achieve this across the Council's estate and operations. Where possible and practical to do so, the Service Provider must take steps to limit carbon emissions associated with the delivery of the Services. Should a Provider be awarded a Call-Off Contract, the Council reserves the right to request evidence of the steps the Provider is taking as part of the contract monitoring process.
- 7.10 Crime and Disorder: Providers will be required to adhere to legislation, including Disclosure and Barring Service checks of all staff.
- 7.11 Public health: Commissioned service outcomes include ensuring that children and young people attain and maintain their optimum level of health, safety, welfare and lead a fulfilling life.
- 7.12 Social value: Bidders will be asked to outline their activities and commitment to social value when submitting details to join the Framework. This will not be a scored item as there is no guarantee of any services being awarded to each bidder. Providers that are awarded Call-Off contracts will be asked annually to outline their activities with regards to Social Value so that these can be recorded on the WSCC Social Value Tracker.

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Background papers – None