

Report to Cabinet Member for Children and Young People

March 2021

Recommissioning of accommodation services for young people aged 16+

Report by the Executive Director of Children, Young People and Learning

Electoral divisions: All

Summary

The Council sources a range of different accommodation options as part of preparing young people aged 16 years and over who are looked after for living independently. Accommodation is also provided for other eligible 16+ young people, such as unaccompanied asylum-seeking children (UASC). These accommodation services are currently accessed via a dynamic purchasing system (DPS), a mechanism that enables the Council to match a young person's needs with a suitable accommodation provider.

The current DPS for 16+ services will expire on 31st March 2022. A framework agreement (under the Public Contract Regulations 2015 "light touch" regime – this will allow for a more flexible framework structure to be adopted) is proposed to replace the DPS as the mechanism for sourcing these services, to go live on 1st April 2022 and run for 5 years, with an option to extend for a further 2 years if required. Based on the full-year cost of existing placements sourced through the current DPS, the estimated annual value of these services is £5.9m, giving an estimated maximum total contract spend of £41.3m.

Recommendations

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

- (1) Approve the commencement of a procurement process for a 16+ Older Looked After Children and Care Leavers Framework Agreement, to run for a period of 5 years, commencing April 2022, with an option to extend for a further 2 years.
 - (2) Delegate authority to the Executive Director of Children, Young People and Learning to implement the framework agreement (including the award of contracts to successful bidders) and to extend the framework agreement if required.
 - (3) Delegate authority to the Executive Director of Children, Young People and Learning to award contracts to successful providers on completion of mini competitions undertaken to obtain services from the framework agreement.
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Proposal

1 Background and context

- 1.1 Local authorities have a statutory duty under the Children Act 1989 (as amended) to provide children and young people who are looked after with safe and appropriate accommodation. Local authorities also have a duty to support those leaving care until they are 21 years of age (or up to 25 years if they are accessing Higher Education). The Children Act also imposes a general duty on local authorities to safeguard and promote the welfare of children within their area who are in need. This can include the provision of accommodation for unaccompanied asylum-seeking children (UASC).
- 1.2 These duties are met primarily through 16+ accommodation services sourced by the Council. These can take the form of both semi-independent and independent accommodation, on a planned or emergency basis, for any of the following groups as is appropriate;
- Children looked after (CLA) and care leavers,
 - Young people with mental health issues,
 - Pregnant young people,
 - Young offenders, including young people fitted with an electronic tagging device,
 - Young people affected by substance misuse,
 - Young people from a traveller family background,
 - Young people with learning and/or physical disabilities,
 - Young people affected by domestic abuse, and
 - Unaccompanied asylum-seeking children (UASC)
- 1.3 In order to meet these needs, in April 2016, the then Cabinet Member for Children - Start of Life approved the formal commencement of a procurement process for providing accommodation options for those young people aged 16+ who are looked after (decision reference [CH01\(16/17\)](#)).
- 1.4 As part of the decision, the Cabinet Member delegated authority to the Executive Director to let the contract. The procurement resulted in the establishment of a DPS to enable the purchase of the accommodation services. The DPS opened in April 2017 and ran for an initial term of 3 years.
- 1.5 In November 2020, a decision was taken by the Executive Director of Children, Young People and Learning to reopen the DPS and extend for a further 2 years ([decision reference OKD44 \(20/21\)](#)). The current DPS will expire on 31st March 2022 and expenditure on services currently provided through the DPS is £5.9m per annum.
- 1.6 In the past 2 years the 16+ population has grown by 29%. A lack of appropriate provision within or near to West Sussex means it has been difficult to obtain more cost-effective block contracts (larger contracts made up of multiple placements to provide particular accommodation requirements for a specific cohort of young people) through the DPS. This is especially true in areas where the Council does not have sufficient access to specialist provision e.g. female-only accommodation.

- 1.7 There have also been a number of recent policy developments in this area, most notably the release of the [Ministry for Housing, Communities and Local Government \(MHCLG\) Joint Housing Protocol for Care Leavers](#) and the launch of the [West Sussex Health and Care in Housing Memorandum of Understanding \(MoU\)](#), both of which encourage greater partnership working between all parties involved in the local provision of housing.
- 1.8 As the current DPS for sourcing these services comes to an end, the intention is to recommission these services in a way which better meets demand, aligns strategically with partners and national best practice and is fit for the future.

2 Proposal details

- 2.1 A framework agreement will be procured, to commence from 1st April 2022. The length of the framework agreement will be 5 years, with an option to extend for a further 2 years if required. This timeline will align services with the long-term strategic aims of the West Sussex Health and Care in Housing MoU and MHCLG guidance.
- 2.2 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 agreement on completion of the procurement process which will be the subject of a further key decision as appropriate.
- 2.3 When accommodation services are required for a young person or young people a suitable provider will be obtained through running a mini-competition process in accordance with the terms of the Framework Agreement. The Cabinet Member will be asked to delegate authority to the Executive Director Children, Young People and Learning to award contracts to successful providers following the outcome of these mini-competitions; those contracts exceeding £500,000 will be the subject of further key decisions.
- 2.4 The new framework agreement will;
- Help stabilise and increase market capacity to provide more choice for young people,
 - Broaden the scope of the Council's offer to meet future demand and changing needs,
 - Increase the efficiency of arrangements by reducing reliance on spot purchasing and expensive out of county placements, and
 - Ensure the Council is compliant to all aspects of statutory legislation and strategically aligned to its local partners.
- 2.5 Under the Light Touch Regime of the Public Procurement Regulations 2015 ("PCR 2015"), there are two options to choose from, in terms of a contract structure, either a DPS or a framework. For this procurement, a framework has been chosen, as, although there will be a mechanism to "open up" the framework during its term to new providers, this will be dealt with under a carefully constructed mechanism and evaluation methodology. A DPS, on the other hand, could become unnecessarily unwieldy, as once potential providers have reached a minimum requirement, they must be allowed to join the Framework; this would mean that all DPS providers would have to be able to respond to all mini-competitions under the DPS, and this could become difficult in terms of time and resources, as it may be that the number of providers is in

the 100s. A Light Touch Regime framework allows more certainty of providers and provides the Council with an ability to ensure effective placements in terms of time and resources.

3 Other options considered (and reasons for not proposing)

- 3.1 **Do nothing.** Not recommissioning new arrangements when the current DPS expires would mean that there would be no effective mechanism in place through which to exercise quality control on providers in an unregulated market, with lengthy, complicated and inefficient process to place each young person. This in turn would likely lead to a widespread failure to meet the needs of young people, a failure in a statutory duty and escalating costs, in particular during a time when the looked-after child population is rising, both nationally and locally.
- 3.2 **Join an existing agreement.** There are currently no suitable existing framework agreements in place that will meet with the Council's requirements and offer the ability to specify the models of delivery that are required.

4 Consultation, engagement and advice

- 4.1 A virtual market engagement event was held on 14th January 2021 to outline proposals and gain feedback from providers. This was attended by 39 providers, 27 of which are potential new providers to the Council.
- 4.2 A request has been sent to 16 other local authorities asking for benchmarking information for these services, to understand how other local authorities source these services and to ensure that pricing for services is competitive.
- 4.3 Advice has been sought from finance, legal and procurement officers, with approval to proceed sought through the Council's internal Commercial Panel and Procurement Board.
- 4.4 The Housing Associations' Charitable Trust (HACT) has been engaged to support the development of a more strategic approach to housing for young people aged 16 and above. HACT will undertake discovery work with all key stakeholders, including engagement with young people, their carers and families and key suppliers such as district and borough councils and registered providers (RPs) of social housing, to support the improvement of the 16+ housing pathway and inform the procurement process for 16+ services.

5 Finance

5.1 Revenue consequences

The children's services budget already funds placements for eligible young people aged 16+. This proposal will improve the efficiency and cost-effectiveness of such placements. Savings are anticipated from 16+ services over the next 2 years.

	Current Year 2021/22 £m	Year 2 2022/23 £m	Year 3 2023/24 £m	Year 4 2024/25 £m
Revenue budget – 16+ placements	6.3	6.3	6.2	6.1
Change from Proposal	-	-0.1	-0.1	-
Remaining budget	6.3	6.2	6.1	6.1

5.2 The effect of the proposal:

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

Value will be improved through moving to a more efficient proportion of block contracted placements, as opposed to spot purchased placements (individual placements to accommodate a young person often urgently and potentially short term, to suit a particular individual's needs, or when there is no appropriate capacity elsewhere). There will also be a move to ensure a more reflective average cost for spot placements through increased competition. These aims will be delivered by;

- The reopening of the current DPS, which has led to a number of new providers joining (17 to date, with c. 15 more having expressed an interest), the majority of whom are expected to apply to the new framework,
- Improved reporting on and increased scrutiny of block and spot arrangements to ensure efficient and appropriate use, and
- The recommissioning of 16+ services, including block contract provision, which will be reviewed and reapportioned as necessary in order to ensure that that there is the right types and levels of provision in West Sussex

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

This proposal will contribute towards savings of £200k attributed to 16+ services over the next 2 years. This savings figure is based upon moving from the current block/spot split of 59% / 41% to a 70% / 30 % split, in addition to a reduction in the average cost of spot purchased placements.

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

The Council has one block contract with a provider which is delivered from a Council asset – Tempe on Market Avenue, Chichester. This service will form a part of the recommissioning process and it is anticipated that it will continue to be used for its current purpose for the duration of the new framework agreement.

Consultation with legal has confirmed that TUPE may apply and the Council will discharge its obligations to facilitate the sharing of TUPE information within the tender documentation. This sharing of the incumbents' TUPE information will allow all bidders to provide a fully considered tender response. The TUPE implications will potentially need to be considered between incumbent providers and new providers and will only be relevant to the block contracts.

6 **Risk implications and mitigations**

Risk	Mitigating Action (in place or planned)
As these services are accommodation-based, access to suitable property in West Sussex can be a barrier to entry for new providers.	Sufficient time for new providers to mobilise and secure appropriate property will be allowed for within procurement timelines.
Further growth in demand is likely to occur prior to the new arrangements starting, placing greater pressure on services where limited supply and increasing costs are an issue.	New providers will continue to be supported to join the existing DPS for the remainder of its lifetime (there are c. 15 additional providers who have expressed an interest but are yet to apply).
Some providers of existing placements when the current DPS expires may not wish/be able to join the new framework agreement.	To avoid unnecessary disruption, young people will remain with the same provider if possible until the natural end of placement, even if the provider does not join the new framework. If this is not possible, mini competitions under the new framework will take place for any such placements, ensuring that alternative suitable placements are quickly identified for young people, supported by planning of the placement move by social work teams.

7 Policy alignment and compliance

7.1 Legal Implications

- (a) The Council has a statutory duty to provide accommodation and support to all children and young people who are looked after over the age of 16 until at least their 18th birthday or, in the case of unaccompanied asylum seeking children, until they receive leave to remain and recourse to public funds. This proposal will enable the Council to continue to meet this duty.
- (b) The value of this procurement is in excess of £500,000 and therefore a Key Decision is required.
- (c) 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 £41.3m over the maximum period (including extensions) of 7 (seven) years.
- (d) The value of the proposed contract is above the relevant UK Thresholds as referred to in the PCR of £663,540.00 for Social and other specific Services ("Light Touch Services").
- (e) 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 PCR (as amended), including the ability for service providers to join the Framework Agreement throughout the Agreement Term, an "open framework".
- (f) 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.

- (g) The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") may apply to some of services on the commencement of the framework, specifically the block contracts.
- (h) 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.

7.2 **Equality duty and Human Rights assessment**

These proposals will support the Council in meeting its duties and continue supported accommodation arrangements which provide essential services for those young people who may be at a disadvantage as they transition to adulthood; for example young people with an education, health and care plan (EHCP) for whom training for independence and support in developing life skills may be vital, or unaccompanied asylum seeking children (UASC).

7.3 **Climate Change**

Commissioned services under the new framework agreement will be located within West Sussex, or within neighbouring local authorities where appropriate, limiting the need for extensive travel, and therefore emissions, for both the young people and their professional network.

7.4 **Crime and Disorder**

Providers will be encouraged to work with young people in a restorative way, with the aim of building healthy communities, increasing social capital, decreasing crime and antisocial behaviour, repairing harm and restoring relationships. All services will be linked with their local Police Community Support Officer (PCSO), who will visit services and interact with the young people. Community safety teams will also be available to be contacted by the provider should an issue arise.

7.5 **Public Health**

One of the key goals for the West Sussex Joint Health and Wellbeing Strategy 2019-24, under the 'starting well' priority, is that children and young people leaving care are healthy and independent and that services therefore work to ensure comprehensive pathways and care packages are available to support care leavers, recognising the positive impact that this can have on young people's physical and mental health and wellbeing and life chances. The new framework agreement will allow existing services to continue and increase supply as more providers are enabled to join.

7.6 **Social Value**

One of the fundamental objectives of these services is to support the young person leaving care to develop a strong sense of themselves and their identity. The development of positive self-image and understanding of their background and history will enable the formation of a positive sense of citizenship. This will enable the young person to hold a sense of belonging and ownership of the community they live in and a connection to society in general. Services will also

work to develop confidence and self-esteem within the young person, so they have the ability to make informed choices moving forward and be able to voice their opinions and thoughts on key issues that affect them. A social value commitment will be expected from providers and will form part of the evaluation criteria for any bids for block contracts.

Lucy Butler

Executive Director of Children, Young People and Learning

Contact Officer: Shelly Dichello, Children's Contracts and Commissioning Manager - 0330 222 4131

Background Papers - None