

Report to Lucy Butler - Executive Director of Children, Young People and Learning

February 2022

Extension of the Dynamic Purchasing System (DPS) for Children's Placements and Other Support Services (CPOSS)

Report by Martin Cross - Children's Contracts and Commissioning Manager

Electoral divisions: All

Summary

The County Council needs to source a range of services and educational placements including foster care and placements in residential homes and independent and non-maintained special schools. The total revenue budget is £60m a year.

The process for obtaining these services from external providers is by using the Dynamic Purchasing System for Children's Placements and Other Support Services ("CPOSS DPS"). Using the DPS enables the Council to match a young person's needs with a suitable provider. The initial contract period for the DPS expires on 28th February 2022 and this report seeks agreement to extend the DPS for 2 years from 1st March 2022 – 29 February 2024.

Recommendation

The Executive Director of Children, Young People and Learning is asked to approve the extension of the Children's Placements and Other Support Services Dynamic Purchasing System for 2 years from 1st March 2022 – 29th February 2024.

Proposal

1 Background and context

1.1 The County Council sources placements using in-house services and the external market for the following:

- **Category 1 Schools** - to provide the following placements for children with Special Education Needs and Disabilities (SEND) - a) Residential schools b) Day schools c) Children's Homes with education (settings dual registered as schools and children's homes) d) Residential short breaks
- **Category 2 Specialist Provision Institutions (Colleges)**

- **Category 3** Independent Fostering Agencies (IFA)
- **Category 4** Children's Residential

- 1.2 The external market is primarily used to source placements from independent children's homes providers, independent fostering agencies and places within independent and non-maintained special schools (INMSS) for children with Special Educational Needs and Disabilities.
- 1.3 In July 2018 the then Cabinet Member for Children and Young People and the Cabinet Member for Education and Skills approved the procurement of the CPOSS DPS, to facilitate the purchasing of placements for individual children from providers of accommodation-based services and INMSS as and when they are required (Decision [CYP03 \(18/19\)](#) refers).
- 1.4 As part of the decision the Cabinet Members delegated authority to the then Director of Children and Family Services to implement the DPS. In March 2019 the then Director of Children and Family Services approved the award of places on the DPS for providers who met the relevant selection criteria (decision reference [OKD 27\(18/19\)](#) refers). The DPS opened in March 2019 and has run for an initial term of 3 years.
- 1.5 A DPS is a register of providers who meet pre-set criteria and standards defined by the Council; the DPS remains continually open to new joiners throughout the term of operation, thus making it agile and able to respond to changing demand.
- 1.6 The CPOSS DPS has been developed in collaboration with 6 other Local Authorities who also use it to obtain placements at INMSS. One other Local Authority also uses the DPS for obtaining placements through Independent Fostering Agencies [IFA] and Residential Homes [RES]. Collaboration with other local authorities is beneficial in that service standards are established across the authorities ensuring the highest reasonable standards and for the provider, a consistent requirement will enable them to plan delivery across the authorities. Consistency of pricing will also be achieved with the likelihood that a better price will be achieved for all authorities.
- 1.7 When a placement for a child is required this is obtained through running a mini-competition process in accordance with the terms of the DPS, and a successful provider identified.
- 1.8 The DPS is delivering what it was intended to achieve with the County Council able to source a high percentage of the requirements for placements – with 74% of INMSS rising to 83% of IFA places obtained from providers on the DPS. In addition, 95.6% of RES and 98% of IFA placements come from providers rated Good or Outstanding by Ofsted compared with the national average of 80% and 93% respectively. Rigorous cost management has also been maintained with a detailed justification required for a fee uplift request and no guarantee (no built-in inflation factor in the contract).

2 Proposal details

- 2.1 The CPOSS DPS was procured for a potential 7-year term with an initial period of 3 years (1 March 2019 – 28 February 2022). Approval is now sought to extend the DPS for 2 years, (1 March 2022 – 29 February 2024). There will

remain a further option for a final extension period of 2 years (1 March 2024 – 28 February 2026).

- 2.2 Extending the DPS will also allow the Children’s Commissioning and Contracts Team the time to consider future options for sourcing these placements and to review the service model to enable greater strategic alignment with the goals of the Children, Young People and Learning directorate.

3 Other options considered (and reasons for not proposing)

3.1 Do not extend and revert to spot purchase

- This will not be welcomed by suppliers as it reduces clarity of the procurement process
- It will need an onerous and inefficient procurement process
- Contractual arrangements will still be required but would potentially need to be negotiated with each supplier
- Whilst it is possible to use the National Special Schools, the National Residential Care, or the National Fostering contract templates, there would be no overarching contractual commitment to maintaining standards and targets for Key Performance Indicators
- If the cost is in excess of £0.5M, this would not be compliant with procurement regulations or the County Council’s governance procedures.

3.2 Join another Local Authority’s (LA) Framework Agreement

- INMSS - another LA Framework doesn’t exist for the INMSS sector
- IFA – the East Sussex IFA Framework is closed until March 2023
- IFA - there is an annual opportunity to join the South-Central IFA Framework, however the model used is less flexible than CPOSS with regard to overall package costs which include therapeutic interventions
- IFA - the current arrangement fulfils 83% of our IFA needs, which are primarily local, and so a broader Framework would be unlikely to increase the placements or providers available to a significant extent.
- RES - this would require the County Council to pay fees to access and be reliant on the LA Quality Assurance process. It could also limit choice as not all the local providers may be interested in joining another Local Authority’s DPS

- 3.3 Do not extend and re-tender as a DPS; the current terms are achieving the desired outcomes; there has been no push back from the market to suggest alternative terms would be more attractive and encourage more people to join the DPS. This would also be resource heavy and would require input from colleagues in legal, procurement and finance. The DPS would still need to be extended to allow for re-procurement to avoid any gaps in service.

4 Consultation, engagement and advice

4.1 Discussions have been completed:

- Internally within the County Council – with legal and finance colleagues and with the Procurement Board who support this proposal
- With partner local authorities – who also support this proposal
- Externally – informal discussions with current providers have shown a high likelihood of agreement to this proposal

5 Finance

5.1 Revenue consequences

	Current Year 2021/22 £m	Year 2 2022/23 £m	Year 3 2023/24 £m	Year 4 2024/25 £m
Revenue budget	60.0	60.0	60.0	60.0
Change from Proposal	0.0	0.0	0.0	0.0
Remaining budget	60.0	60.0	60.0	60.0

The DPS total estimated value for the full 7-year term is £700 million (includes all partners). However, it makes no guarantee of business for any provider.

5.2 The effect of the proposal:

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

The CPOSS DPS process does allow providers to seek an annual increase as, without this facility, it is unlikely that providers would commit to the DPS or, if they did, as the DPS remains open, providers would withdraw and reapply with a higher price. Nevertheless, few providers use the facility, and this mechanism has therefore suppressed price increases that would otherwise have occurred.

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

Whilst the CPOSS DPS is not expected to deliver any financial savings, better value for money should be achieved through better contract management and effective monitoring of performance, which will continue to drive up standards and improve outcomes. Engagement with the market will continue to be more effective which should also bring future benefits.

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

None

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
The time available to rerun a tender process is not available	The risk of challenge is low as there are mitigating factors: The original OJEU notice allows for an extension; the original key decision report allows for the extension period and gives delegated authority for the Executive Director to extend the DPS for up to two years; organisations have been able to join the DPS during the lifetime of the contract and will continue to be able to do so for any extension period.

7 Policy alignment and compliance

7.1 Legal Implications

The Council has a statutory duty to provide accommodation and support to Children We Care For 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. Extending these arrangements will enable the Council to continue to meet this duty. The risk of challenge in extending the current arrangement is extremely low as set out above.

7.2 Equality duty and Human Rights assessment

These proposals will support the Council in meeting its duties to provide essential services for those young people who may be at a disadvantage as they transition to adulthood. The CPOSS DPS supports and encourages citizenship and social inclusion in local communities for Children we care for and by actively promoting inclusion to help to eliminate discrimination, harassment and victimisation.

7.3 Sustainability

By using all efforts to place Children we care for locally, the County Council will minimise travel costs and their environmental impact.

Lucy Butler

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Background Papers - None