

North Tyneside Council

Report to Cabinet

Date: 24 June 2019

ITEM 5(c)

Title: Independent Fostering Agencies Framework - Sub-Regional Procurement Proposal

Portfolio(s): Children, Young People and Learning
Finance and Resources

Cabinet Member(s): Councillor Peter Earley
Councillor Ray Glindon

Report from Service Area: Health, Education, Care and Safeguarding

Responsible Officer: Jacqui Old, Head of Health, Education, Care and Safeguarding (Tel: (0191) 643 7317)
Mark Longstaff, Head of Commissioning and Asset Management (Tel: (0191) 643 8089)

Wards affected: All Wards

PART 1

1.1 Executive Summary:

The existing sub-regional Independent Fostering Agencies (IFA) framework which was established in 2015 is due to expire in September 2019. The purpose of this report is to seek approval to participate in a collaborative procurement exercise that would establish a new sub-regional framework for letting contracts with IFAs.

Whilst Contract Standing Order 24 allows for joint procurement arrangements with other local authorities or public bodies, the estimated potential total cost of services to be procured will exceed £500,000 which means that Cabinet approval is required in accordance with Contract Standing Order 8 (4).

1.2 Recommendation(s):

It is recommended that Cabinet:

- (i) authorises the Head of Health, Education, Care and Safeguarding, in consultation with the Elected Mayor, Cabinet Member for Children, Young People & Learning, Cabinet Member for Finance and Resources, the Head of Resources and the Head of Law and Governance to proceed with the procurement exercise being led by Newcastle City Council that will establish a sub-regional framework for letting contracts with IFAs, for a period of 18 months, with an option to extend for a further 12 months; and

- (ii) authorises the Head of Health, Education, Care and Safeguarding, in consultation with the Head of Resources, the Head of Law and Governance and Cabinet Member for Finance and Resources to enter into the framework agreement following the procurement and subsequent call off contracts under the arrangement.

1.3 Forward plan:

28 days notice of this report has been given and it first appeared on the Forward Plan that was published on 17 May 2019.

1.4 Council plan and policy framework

This report relates to the following themes in the [2018-2020] Council Plan (Our North Tyneside Plan).

Our People will

- Be cared for, protected and supported
- Be ready for work and life

1.5 Information

1.5.1 Background

In order to comply with the Authority's statutory obligations under the Children's Act 1989 and other legislation, the Authority needs to ensure that provision is in place for children in need of foster care. The Authority requires the services of Independent Fostering Agencies (IFAs) when in-house foster care provision cannot meet the needs of a child. As at March 2019, the Authority had 28 children and young people placed with IFAs. By comparison, the number of children placed with in-house foster carers (including connected persons) was 218. North Tyneside has consistently been the second lowest user of the sub-regional framework, both in terms of the number of placements and as a percentage of the looked after children cohort.

The Authority has developed a new Fostering Strategy which aims to increase the use of in-house fostering placements to meet the needs of children from 2019 onwards. Proposals will be presented to Cabinet later this year which aim to increase the number of in-house foster carers, through a revised fees structure and a more comprehensive package of carer support. Despite this, there may still be occasions where an in-house placement that meets the needs of a child cannot be provided, so appropriate procurement arrangements need to be in place in order for the Authority to purchase placements from IFAs if required.

In April 2011 Newcastle City Council took the lead to bring together seven councils, known as the "NE7", (Newcastle, North Tyneside, South Tyneside, Northumberland, Gateshead, Durham and Sunderland) to carry out a collaborative procurement exercise which resulted in a sub-regional framework for letting contracts with IFAs. This initial framework expired in March 2015 and a further procurement exercise took place for a new framework which commenced in April 2015 where 25 IFAs were awarded contracts. Current arrangements are due to expire on 30 September 2019 therefore it is imperative that a new collaborative arrangement is in place for then.

Since 2011, the NE7 local authorities have worked collaboratively with each other and with providers to achieve the following benefits:

- a fixed pricing framework with clear descriptors for banding levels to ensure that the appropriate type of placement is made against the assessed needs of children;

- financial savings/cost avoidance when compared with pre-framework spot purchase rates;
- consistent quality monitoring across providers;
- consistent service to local authorities;
- opportunities to develop positive relationships with providers to enable open and transparent communication;
- increased number of framework providers achieved through engagement activity;
- a more diverse and balanced market with less reliance on a small number of large providers; and
- clear commissioning information to enable existing providers to expand their presence in the NE7 region and enable new providers to enter the local market has been provided.

As at 1 April 2019, North Tyneside Council had 28 children placed with IFAs. 27 of these were with framework IFAs and only one was with an off-framework IFA. Placements are always sought in the first instance from framework IFAs, but if they are unable to offer a placement that meets the needs of a child, a placement would then be sought from an off-framework IFA.

The cost to the Authority and usage of the IFA placements over the last five financial years is as follows:

Year	2014/15	2015/16	2016/17	2017/18	2018/19*
Number of nights purchased	8,215	8,414	10,119	10,806	9,701
Net Expenditure (£)	946,667	1,023,245	1,167,292	1,146,417	995,981
Cost per night	£115	£122	£115	£106	£103

**draft figures subject to final year end reconciliation*

The number of nights purchased is the total number of nights that children have been in placement during that year and has been included to show that the change in annual expenditure is largely in line with the number of nights purchased. The cost per night has reduced slightly since 2015/16. This is an average across all placements and can vary depending on the particular mix of children and the price bandings for their placements, which are based on a child's needs. There has also been an increase in the proportion of "Staying Put" placements for young people aged 18 to 21 which cost around half the price of a standard placement. Out of the 28 current placements, six are young people aged over 18 in a Staying Put arrangement.

1.5.2 The Financial Model

A significant amount of consultation has taken place with operational colleagues and providers in relation to the financial model. Feedback from providers has consistently been that because there has been no uplift for the last 8 years, the framework fees are no longer sustainable. Providers have indicated that without a fee increase they would not apply to join the framework and authorities would therefore revert to the position of having to spot purchase placements at individually negotiated rates.

Benchmarking against other collaborative frameworks has taken place and the NE7 rates are notably lower than those of the two other main northern frameworks; Tees Valley and

White Rose (Yorkshire and Humber). Consideration was given to increasing fees to match these frameworks; however the increase was felt to be too high.

Financial modelling has been carried out by the seven authorities and it has been agreed by the Regional Children's Strategic Commissioning Group in consultation with Directors of Children's Services and Directors of Resources that an increase of 2.4% based on the Consumer Price Index is appropriate. This will apply to both new and existing placements. A fee uplift in line with CPI has been agreed for April 2020 and April 2021 (should the 12 month extension period be taken up). More detail around the financial implications is set out in section 2.1.

1.5.3 Procurement Process and Quality Assurance

Newcastle City Council has been appointed to lead this procurement process on behalf of the North East Procurement Organisation (NEPO).

It is proposed that Newcastle City Council will publish an Invitation to Tender via advertisement naming each of the participating authorities. Evaluations of submissions will be carried out by commissioning professionals from all seven local authorities, facilitated by a senior procurement professional within Newcastle City Council. The NE7 consortium will adhere to the regional collaborative procurement protocols and assurance Gateways throughout the procurement process. Framework agreements will be awarded to all successful tenderers, and the Authority as one of the participating authorities will have the ability to award call off contracts with the successful tenderers as necessary.

Young people who have experience of foster care have been invited via the Regional Children in Care Council to contribute to the tender evaluation process. The young people who have volunteered for this role will work together as a group to develop questions for providers to respond to in relation to quality and the support offered to children and young people. North Tyneside's Participation, Advocacy and Engagement Team are supporting this work. Four looked after young people from North Tyneside have volunteered to participate in this along with young people from across the seven authorities.

The tender evaluation will also require providers to evidence that they meet the required standard in terms of Ofsted, safeguarding and health and safety. Additional questions will assess their experience and technical ability to deliver a high quality fostering service.

The NE7 consortium has established quality assurance processes in place whereby providers who have been awarded contracts are allocated to a "Link Authority Officer" who will take the lead on contract monitoring of the service on behalf of the NE7 authorities. This will involve an annual quality assessment as well as responding to any issues raised throughout the year by participating authorities or Ofsted.

New arrangements will be in place by 1 October 2019. Where a placement is already in existence and the supplier becomes part of the new framework, the existing contract will be transferred to the new framework terms and conditions. Where the Authority is already utilising the services of an IFA which chooses not to participate in the tendering process, then the existing contract for that individual agreement would remain intact for the duration of the placement to ensure child placement stability. A contract will only be awarded to a provider who is not appointed to the framework in the event that a suitable placement cannot be made with a provider who is on the framework.

1.6 Decision options:

Option 1

Cabinet approves that the Authority participates in the sub-regional procurement exercise to establish a framework for contracts with Independent Fostering Agencies in accordance with paragraph 1.2 above.

Option 2

Cabinet does not approve that the Authority participates in the sub-regional procurement exercise.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

This sub-regional collaborative arrangement is in keeping with regional priorities leading to more efficient service delivery. The Authority will benefit from a standardised and transparent pricing structure, consistency of quality across all providers and a more developed local market which can provide a range of placements to meet the needs of children and young people.

If the recommendation is not approved, the existing framework will expire in September 2019 and the need to purchase external placements will continue. The Authority will need to undertake a separate procurement exercise without the benefits of collaborating with the rest of the sub-regional group.

1.8 Appendices:

None.

1.9 Contact officers:

Jacqui Old, Head of Health, Education, Care and Safeguarding, tel. (0191) 643 7317

Mark Longstaff, Head of Commissioning and Asset Management, tel. (0191) 643 8089

Rebecca Bacon, Commissioning Manager, Commissioning and Asset Management, tel. (0191) 643 8696

Mark Taylor, Strategic Commissioning Manager, Commissioning and Asset Management, tel. (0191) 643 8755

Denise Pearson, Procurement Manager, Engie, tel. 07817 574538

David Dunford, Acting Senior Business Partner, tel (0191) 643 7027

1.10 Background information:

None.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There is provision for the purchase of these services in the Council's revenue budget within Health, Education, Care and Safeguarding.

An indication of the potential financial impact based upon the annual expenditure on IFA placements in 2018/19 is set out in the table below. This is an estimate based on the current mix of children placed and their individual needs. The estimate assumes that all current framework providers will remain on framework. It should also be noted that, as a result of the new Fostering Strategy, it is anticipated that there will be a reduction in the number of new IFA placements made (and therefore the total number of IFA placements).

	2018/19 annual expenditure	2019/2020 Full year (with part year 2.4% increase*)	2020/21 Full year (with estimated 2.4% increase)	2021/22 Full year (with estimated 2.4% increase)
Forecast expenditure (£)	995,981	1,007,934	1,032,124	1,056,895
Increase from previous year	-	11,953	24,190	24,771

**placements made prior to April 2019 will be uplifted to the new rates on 1st October 2019.*

Due to the time taken to consult with all stakeholders and fully consider the implications of any fee changes, it was necessary to extend the current framework from 1 April 2019 to 30 September 2019. Following consultation, a fee increase of 2.4% was agreed for the six month extension period (this applies to new placements made during the extension period only). The impact of this will be closely monitored through regular budget monitoring with the Service.

During the consultation period five providers indicated that the increase was not sufficient and opted not to extend their framework contracts (placements made with these providers prior to 1 April 2019 are not affected and will remain on the framework pricing, terms and conditions until the individual placements end). This demonstrates that providers are willing to leave the framework and revert to spot purchasing arrangements should they not consider the pricing sustainable. Any further financial impact following the completion of the joint procurement will be reported to Cabinet.

2.2 Legal

Contract Standing Order 24 allows a joint procurement. As the value of the contract as a whole exceeds the threshold of £500,000, this procurement requires Cabinet approval. Any procurement process will be undertaken in accordance with the Authority's Contract Standing Orders and EU and UK public procurement requirements. An award will be based on the most economically advantageous tender and the successful tenderer(s) will be appointed on terms and conditions approved by the Head of Law and Governance.

A contract monitoring group exists in order to address any governance issues which may arise regarding the framework agreement and providers. In addition Newcastle City Council will take any enforcement action necessary against any defaulting provider.

Given a framework agreement will be established there is no obligation on the Authority to award any contracts. The Authority can terminate any call off contract at any time without

terminating the framework agreement therefore protecting the Authority's position. Call off contracts will be awarded following either a mini-tender or a direct award as necessary.

2.3 Consultation/community engagement

Throughout the commissioning phase of this exercise, consultation has taken place with children's social care and fostering managers as well as with commissioners from all seven collaborating authorities.

Several consultation sessions have taken place with the private and voluntary sector to ensure that they understand the financial context in which councils are operating so that consideration can be given to any operational concerns and so the NE7 authorities can ensure that the model proposed is sustainable for providers.

The NE7 authorities recognise the importance of consulting with service users. Children and young people will be involved with evaluation of the tender and specifically will be invited to design questions on areas that are important to them. Consultation from the previous procurement exercise told us that children and young people were particularly interested in the information they are given in their Welcome Pack and as a result of this we expect that the content of providers' Welcome Packs will be considered as part of the tender evaluation. Children and young people in care are also regularly consulted with as part of the Looked After Review process and feedback is incorporated into the quality monitoring process.

No public consultation is proposed.

2.4 Human rights

There are no human rights implications arising from this report.

2.5 Equalities and diversity

There are no equality and diversity implications arising from this report.

2.6 Risk management

Any risk management issues will be included with the Council's risk register and managed by this process.

2.7 Crime and disorder

There are no crime and disorder issues arising directly from this report.

2.8 Environment and sustainability

There are no environment and sustainability issues arising from this report.

PART 3 - SIGN OFF

- Chief Executive

- Head(s) of Service

- Mayor/Cabinet Member(s)

- Chief Finance Officer

- Monitoring Officer

- Head of Corporate Strategy
and Customer Service