

**Forward Plan reference number:** FP/308/02/22

<b>Report title:</b> Framework for External Fostering Placements	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor Beverly Egan, Cabinet Member for Children's Services and Early Years	
<b>Date:</b> 21 June 2022	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## 1. Everyone's Essex

- 1.1 ECC is responsible for securing accommodation for children in their care, who cannot be placed with connected persons, in the most appropriate placement available. Fostering is one method of doing this.
- 1.2 The Essex Children in Care Commissioning Strategy sets out the Council's intentions to increase internal foster carers, that is those people who work directly with the Council to provide care. However, there is not sufficient capacity to be able to meet the demand for foster placements and so 'external' fostering placements are sourced through foster placement agencies to enable the Council to increase capacity.
- 1.3 This decision is important to delivering the Council's Everyone's Essex commitments and is integral to the priority that is Families; specifically, to improve educational outcomes, improve family resilience and stability, maintain safety, and deliver good outcomes for vulnerable children which includes Children in Care, Care Leavers, Children with SEND and children from BAME communities.

## 2 Recommendations

- 2.1 Agree to undertake an open competitive procedure to procure a 4-year Framework Agreement for External Fostering Placements.
- 2.2 Agree that the procurement will be structured so that the Framework Agreement is available for Southend City Council to use. The estimated value of the Framework Agreement to ECC over the 4-year period is £24.1m. Southend City Council is estimated to spend a further £10m.
- 2.3 Agree to enter into an Access Agreement with Southend City Council to enable Southend City Council to access and call-off placements from the Framework Agreement.

2.4 Agree that the Framework Agreement shall be procured in four needs-based lots:

- **Lot one - Standard Support** Where the child or young person has a low to medium level of need with no ongoing challenging behaviours.
- **Lot Two – Enhanced Support** Where the child or young person has a medium to high level of need e.g., history of placement breakdowns, mental health needs, mild to moderate disabilities.
- **Lot Three - Intensive Support** Where the child or young person has significant levels of need, e.g., complex health needs or disabilities, excluded from school, significant substance misuse.
- **Lot Four - Parent and Child Placements** Where the placement is for an under 18 parent and their children including cases where there is a need for continuing assessment and on-going support.

2.5 Agree that the evaluation model for the procurement of the Framework Agreement will be based on a weighting of 70% quality (of which 10% will assess Social Value) and 30% price.

2.6 Agree that the evaluation criteria applied to placements from the Framework Agreement will be based on a weighting of 80% quality and 20% price. The quality aspect of the call off will be used to assess how suitable the placement is to meet the child's individual needs against matching criteria provided by the placement team detailing the child's requirements.

2.7 Agree that the Framework Agreement will include an annual refresh process which will enable existing providers to review their pricing and permit new providers to join the Framework.

2.8 Agree that the Cabinet Member for Children's Services and Early Years is authorised to award framework agreements to the successful bidders following completion of the procurement process.

2.9 Agree that the Cabinet Member for Children's Services and Early Years is authorised to award framework agreements to new providers as part of the annual refresh process.

2.10 Agree that the Cabinet Member for Children's Services and Early Years is authorised to vary framework agreements following a pricing refresh if the likely financial consequences of such variation are within the budget available.

### 3. Background and Proposal

3.1 The Council's Children in Care Commissioning Strategy (2020) sets out how the Council plans to fulfil its duty to meet the needs of the children and young people in our care, and care leavers. The Council has an ambition that children and young people who come into their care receive high-quality provision and are supported to achieve a sustainable exit from care.

- 3.2 The Council has an in-house fostering service which provides a range of fostering placements. In house foster care unit costs are lower than external foster care costs and achieve good outcomes for children in care. However, despite having a high number of in-house foster carers, the Council needs to supplement this by using external foster care agencies. This is either because a child needs specialist support that can't be met through the in-house specialisms or because there is insufficient capacity in the in-house service.
- 3.3 The need for foster care can arise quickly and the foster placement must be the most appropriate placement to meet a child's needs. Where the Council cannot place a child with an in-house foster carer, there is a need to have easy access to a range of reliable, efficient and effective external fostering providers to deliver placements to young people in care.
- 3.4 The current framework agreement for the provision of external fostering placements commenced on 21st November 2018 and expires on the 20th November 2022. There is no provision to extend this existing agreement. The current framework operates in 4 Lots as follows:
- Limited Support
  - Standard Support
  - Intensive Support
  - Parent and Child Placements
- 3.5 The number of external fostering placements have remained stable over the last two years with approximately 170-190 placements being made on a monthly basis in comparison to approximately 480-550 placements being made with internal foster carers.
- 3.6 Most external fostering placements have been made via the current framework, with only relatively small numbers (35) needing to be spot purchased. Placements are most difficult to find for children and young people with mental health concerns and for adolescent boys. The placement search for these cohorts is more likely to require a spot purchase, due to no suitable in-house or external placements not being found.
- 3.7 Benchmarking has been undertaken with Local Authorities in the Eastern Region to explore costs and approaches to the commissioning of external fostering placements and there is no one blueprint for best practice. During the past twelve months there has been a range of consultation and engagement with children and young people who have been or are in the Council's care in order to improve the range of provision made by the Council. This insight has influenced and shaped the new specification for external fostering providers who will be monitored to ensure the expectations are reflected in the care and supported provided for children and young people.
- 3.8 The Children in Care Council conducted a podcast in October 2021 which gathered their views of what a good foster placement is please see below. This feedback can be summarised as follows:

- A place that feels like home with support to develop socially and emotionally with firm but fair boundaries and where they will be enabled to be involved in decisions.
- Foster carers will go out of their way to earn trust and respect, welcome them into their homes, be non-judgemental and enable them to learn from their mistakes.
- “When I was with my foster carer, I could make mistakes and wasn’t going to get carted off to another foster carer, I would be shown how to correct my mistakes and just [wanted] to be loved”.

3.9 Market engagement was undertaken through discussion with the Nationwide Association of Fostering Providers (NAFP) which represents the majority of Independent Fostering Agencies (IFAs) and via two market engagement events undertaken by the Council. These were open to all providers and were held in February 2022 and April 2022. We have considered their views, and these are reflected in the procurement and specification. The main feedback from these sessions is that:

- providers would be more likely to engage with a procurement where there are annual pricing reviews.
- the Lot details/names need to be more comprehensive and comparable with and aligned to other Local Authorities (“LA”) to ensure common understanding and expectations for those working across more than one LA.

3.10 This paper proposes to launch a tender for a new 4-year framework for External Fostering Placements from November 2022 to November 2026. It is proposed that the procurement will be structured so that it can be used by Southend City Council (SCC). ECC will enter into the Framework Agreements and ECC and SCC will enter into an Access Agreement which will enable SCC to access the framework agreement and call-off external foster placements. The Access Agreement will set out matters such as how the Framework Agreement will be managed and how call-offs will be made. This arrangement is mutually beneficial as it will increase the overall volume of placements made via the framework making it more attractive to the market. In addition, feedback from the market has told us that collaborations between Councils with aligned call off procedures reduces their administrative burden and allows them to respond to placement queries faster.

3.11 A one stage, open procedure will be used to procure the Framework Agreement. Responses will be evaluated using a 30/70 price/quality model with 10% of the quality score assessing social value. The rationale for a 70% quality split is to ensure that there is a high percentage score assessing the quality of the service to be provided and the positive outcomes for children and young people.

- 3.12 The Framework Agreement will allow for an annual refresh where new providers will be able to join the framework and existing framework providers will be able to submit a new pricing schedule. This will ensure that more providers have the opportunity to join the framework giving the placement team access to as more available placements. It will also enable existing framework providers to ensure their costings remain competitive and therefore increase the attractiveness for providers in bidding for call-off placements. All annual fee uplifts by providers successfully admitted to the framework will be capped at CPI and challenged where appropriate. This will only apply to new placements on the framework with existing “legacy” placements to remain at current prices for the duration of the placement.
- 3.13 The evaluation criteria applied to making a placement from the framework will have a weighting of 80% quality and 20% price. The quality element is applied to assess how well the placement will meet a child and young person’s accessed needs. A placement will only be made if one can be identified that meets the child’s needs outlined within the call off form. If there are two suitable placements the most cost-effective placement can then be identified using the price evaluation.
- 3.14 It is proposed that the procurement documents are issued in July 2022 with a deadline for bids in September 2022. The Council will enter into contracts with those providers who qualify through the procurement process and the new Framework will go live in November 2022.

#### **4. Links to our Strategic Ambitions**

- 4.1 This report links to the following aims in the Essex Vision

- Provide an equal foundation for every child

- 4.2 Approving the recommendations in this report will have the following impact on the Council’s ambition to be net carbon neutral by 2030:

By ensuring more children and young people are placed within 20 miles of their home will result in reduction of travelling for families and social workers and also children and young people travelling to and from education and recreational activities.

- 4.3 This report links to the following strategic priorities in the emerging Organisational Strategy ‘Everyone’s Essex’:

- Health wellbeing and independence for all ages
- A good place for children and families to grow

#### **5. Options**

**Option 1 (recommended option): Procure a 4-year framework which will be refreshed annually and enter into an access agreement with Southend to enable them to call off the framework**

**Benefits:**

- Market engagement indicates that this option is favoured by the market as it offers them the ability to price more accurately, therefore it would encourage more providers to join the framework, giving the Council increased choice of placements.
- Ability to on-board new providers onto the framework annually, enabling the Council to benefit from new entrants to the market.
- Encourages accurate pricing from the market, as they will not need to make 4-year projections in their costing assumptions.
- Could result in better value for money for the Council, as initial placements will be priced more accurately.
- Ability for the Council to cap annual price uplifts, for example linked to Consumer Price Index (CPI).
- Familiar framework call-off procedure for CYPPS Team, minimising disruption or need to train/upskill staff in new placement processes.
- Increased attractiveness to market due to increased placement volume through collaborative arrangements with Southend.
- Current framework providers have actively engaged in discussions around operational improvements and have indicated a willingness to continue to work with us.

**Disadvantages:**

- Increasing cost if current inflationary pressures in the wider economy persist in the longer term. This risk is mitigated through the Fostering Strategy delivering the planned % increase in-house placements over the lifetime of the framework.
- Providers are likely to submit initial pricing based on current cost of living and inflation, which may then be over-inflated if inflation rates subsequently drop. This risk is mitigated through linking or capping the annual re-pricing to an agreed measure and challenge and review of all requested price increases.

**Option 2: Procure a 4-year framework with the option for ECC to refresh the framework annually and enter into an access agreement with Southend to enable them to call off the framework**

**Benefits:**

- Potential to on-board new providers onto the framework at the Councils discretion, for example if there are unforeseen peaks in demand or new entrants to the market.
- Familiar framework call-off procedure for CYPPS Team, minimising disruption or need to train/upskill staff in new placement processes.
- Increased attractiveness to market due to increased placement volume through collaborative arrangements with Southend.

- Current framework providers have actively engaged in discussions around operational improvements and have indicated a willingness to continue to work with us.

**Disadvantages:**

- Market intelligence indicates that without guaranteed re-opening/re-pricing built in, providers' likely response is to front load pricing for the full 4-year period, therefore this option may not deliver best value for money and may result in cost pressures, particularly if the planned decrease in the use of IFAs does not occur.
- Market intelligence indicates that this option is not popular with providers due to its lack of flexibility and the Council may therefore lose out on placements locally as other LAs spot purchase or utilise more flexible purchasing arrangements.
- Limited opportunity for new providers to join the framework – mitigated through option to re-open annually
- The market generally has expressed a preference for a Dynamic Purchasing System (DPS) therefore may choose not to engage with Essex's framework – considered unlikely due to the scale of Essex and acknowledgement from providers that Essex is a 'big player' and therefore worth engaging with.

**Option 3 (not recommended): Procure a Dynamic Purchasing System (DPS)**

**Benefits:**

- Flexibility for new providers to be added to the DPS at any stage of its lifetime.
- Potential to increase access to new providers as soon as they are registered, rather than having to wait for a framework to re-open.
- Preferred option from the perspective of general market feedback, due to flexibility and the model supporting their longer-term business planning.

**Disadvantages:**

- Has not been used by the Council in social care for around eight years (and never used in children's social care), therefore there would be a need for extensive upskilling and cultural change to consider in implementing.

## 6. Issues for consideration

### 6.1 Financial implications

6.1.1 The budget for External Fostering in the Medium-Term Resources Strategy is set out in the table below:

Year	Period	Volume	£ / Week (Median)	Budget £000
2022/23	Nov 22 - Mar 23	54	968	3,001



2023/24	Apr 23 - Mar 24	115	978	6,504
2024/25	Apr 24 - Mar 25	102	997	5,946
2025/26	Apr 25 - Mar 26	89	1,017	5,462
2026/27	Apr 26 - Oct 26	52	1,107	3,186 *tbc
Total Budget				24,099

6.1.2 The table reflects the proportion of the number of Children in Care (CiC) to be placed with external foster carers at the median cost of all external foster care placements and is in line with the overarching Fostering Strategy.

6.1.3 The preferred option is required to support the Council's overarching Fostering Strategy.

6.1.4 The benefits as indicated in the preferred option is to allow new entrants into the framework to increase supply and to more accurately price placements for the following 12 months.

#### 6.1.5 Financial Risks

- The key driver to achieving the outcomes within the Essex Children in Care Commissioning Strategy and remaining within budget constraints is the continued shift towards internal fostering provision from external foster placements. However, the authority is facing challenges in finding internal fostering placements and so there is a risk of increasing the use of external fostering placements.
- Changes to the capacity of ECC's internal foster carers will impact on the demand to place with external foster care providers. The weekly cost of internal foster care including fees and allowances for mainstream placements assumed in the budget for 2022/23 is £447 per week. The median cost per week for external foster care placements assumed in the budget is £968 per week. Therefore, for every placement that cannot be met through internal foster care provision a further £521 per week will need to be funded.
- Due to inflationary pressures in the wider economy, there is a risk that this will feed into the fees for external foster placement providers and potentially leading to cost pressures in excess of inflationary assumptions applied in the budget. To aid in mitigating this risk all requests for annual fee uplifts by providers successfully admitted to the framework will be capped at CPI and challenged where appropriate. This will only apply to new placements on the framework with existing "legacy" placements to remain at current prices for the duration of the placement.

## 6.2 Legal implications



6.2.1 Local Authorities have a duty under section 22A of the Children Act 1989 to provide accommodation for a looked after child or young person. There are various requirements under section 22C of the Act for such placements including that as far as is reasonably practicable, accommodation should:

- Be close to the child's family home.
- Allow the child to continue attending the same school as when they were at home.
- Allow the child to live in the same placement as a sibling who is also a looked after child.
- If the child is disabled, meet the child's particular needs.

These factors will affect whether or not a provider is able to offer a match for any particular placement.

6.2.2 These services fall within 'social and other specific services' within Schedule 3 of the Public Contracts Regulations 2015 (the "Regulations"). ECC is not required to use the open procedure for these services but can do so if it considers appropriate.

6.2.3 As the services fall within Schedule 3 of the Regulations, a pseudo framework can be used that enables ECC to re-open the framework to new providers and enable existing providers to refresh their pricing. A pricing refresh could result in increased costs for ECC unless this is limited. Any pseudo framework must still comply with the general requirements around transparency and treating suppliers equally.

6.2.4 The procurement documents will need to be structured such that Southend City Council is able to call-off from the Framework by entering into an Access Agreement with ECC. The Access Agreement should detail all necessary terms between ECC and SCC relating to how this process will work.

6.2.5 Contracts must be awarded on the basis of the most economically advantageous tender and qualitative, environmental and/or social aspects should be linked to the subject matter of the contract.

## **7 Equality and Diversity Considerations**

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **8 List of Appendices**

Appendix 1- Equalities Comprehensive Impact Assessment

## **9 List of Background papers**

None.