

Forward Plan reference number: FP/842/10/20

Report title: Semi-Independent Accommodation and Support: Decision to Recommission a Framework from October 2021	
Report to: Cabinet	
Report author: Councillor Louise McKinlay, Cabinet Member, Children and Families	
Date: 19 January 2021	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The Children Act 1989 was amended by the Children (Leaving Care) Act 2000 and imposes accommodation duties on local authorities to support looked-after children and care leavers aged 16 and 17 as well as care leavers over 18 who are ineligible for housing by the Local Housing Authority. Semi-Independent Accommodation (SIA) is one such accommodation option.
- 1.2 This report sets out a recommendation to commission a framework agreement to provide SIA to defined cohorts of young people and families, commencing in October 2021 for a period of 4 years, including the opportunity to re-open the framework to new entrants after a period of 2 years.

2. Recommendations

- 2.1 Agree that the Council procures a framework agreement for the provision of SIA in four Lots for the following cohorts:
 - **Lot A** - SIA and support for eligible and relevant young people aged 16 and 17.
 - **Lot B** - SIA and support for Unaccompanied Asylum-Seeking Children (UASC) aged 16 and 17, including initial age assessment where required.
 - **Lot C** - Accommodation for families and young people 18+ with no recourse to public funds (NRPF) where the Council has a duty to provide them with accommodation.
 - **Lot D** - SIA and support for eligible and relevant young people aged 16 and 17, who have complex needs that require extended, intensive support and supervision.
- 2.2 Agree that the procurement is carried out using a single-stage, open tender process via the Council's e-sourcing portal.

- 2.3 Agree that the high-level evaluation criteria for the procurement will be 60% for quality and 40% for price and agree that the Executive Director, Children and Families is authorised to approve the detailed evaluation criteria sitting below this.
- 2.4 Agree that approval to award the contract(s) on the framework agreement is delegated to the Cabinet Member for Children and Families.

3. Summary of issue

- 3.1 The Council is required to provide accommodation to children and young people and their families in a number of circumstances. This report relates to the procurement of accommodation and support placements in the following circumstances:

a) Eligible and relevant young people aged 16 and 17 (Lots A and D)

The Children Act 1989 as amended by the (Leaving Care) Act 2000 imposes accommodation duties on local authorities to support looked-after children and care leavers aged 16-17. The Council's Looked After Children Sufficiency Strategy 2018-22 identifies SIA as one of several accommodation options designed to support some of the most vulnerable children and young people leaving care. These placements form an important part of the system in meeting the needs of older children who are ready for increased independence.

b) Unaccompanied Asylum-Seeking Children (UASC) (Lot B)

The Council has a statutory duty under Section 20 of the Children Act 1989 to assess and provide accommodation and support to any child who requires it, irrespective of their immigration status, nationality or documentation, until they reach the age of 18.

c) Families and young people aged 18+ with no recourse to public funds (NRPF) (Lot C)

Section 115 of the Immigration and Asylum Act 1999 states that a person will have 'no recourse to public funds' if they are 'subject to immigration control'. This means they have no entitlement to the majority of welfare benefits, including income support, housing benefit and a range of allowances and tax credits. Under the Hillingdon Judgement, the Council is obliged to adhere to the Local Authority Guidance LAC (2003) (13) on accommodating children in need and their families under section 20 of the Children Act (1989), where they have No Recourse to Public Funds. This extends to providing accommodation for care leavers over the age of 18 in such circumstances.

- 3.2 SIA is unregulated provision, meaning that providers are not required to be registered with Ofsted or the Care Quality Commission (CQC) and are not subject to statutory regulation. All local authorities are able to use this type of provision for some of the 16 and 17-year-old young people in their care if the local authority has decided to do so as a consequence of a looked after child review in consultation with the Independent Reviewing Officer; or is satisfied

that it is necessary in order to safeguard the welfare of a looked after child (a) to make such arrangements; and (b) to do so as a matter of urgency. This type of accommodation does not deliver what Ofsted considers to constitute 'care' under the Care Standards Act 2000: it is used as a stepping-stone to independence and only when it's in a child's best interests.

- 3.3 During 2020, the Government consulted on measures to help make unregulated provision safer, including: (1) the introduction of national quality standards for unregulated provision; and (2) the introduction of a definition of 'care'. The outcome of this consultation is still awaited, however it is expected that some form of standards will be brought in and are likely to imply that local authorities will regulate or monitor provision. Robust quality assurance processes have been in place in Essex since the current framework was implemented and the recommended option will support the Council to meet government requirements going forwards including the incorporation of quality assurance processes into the contract.
- 3.4 This Framework Agreement will support the delivery of the following Strategic Priority in the Council's Organisational Strategy: To help keep vulnerable children safer and enable them to fulfil their potential.
- 3.5 There is an existing framework agreement in place which commenced in October 2017 and expires in October 2021. There is no further provision to extend this framework agreement. The current framework consists of 3 Lots as set out in table 1 below with varying numbers of providers on each Lot. The vast majority of current providers are small and medium sized enterprises (SMEs), around half of whom have established their business in Essex as a result of this framework.

Table 1: Current framework and number of providers

Current Framework Lot	Number of Providers
Lot A - Semi-independent accommodation and support for eligible and relevant young people and young people in care.	21
Lot B - Semi-independent accommodation and support for Unaccompanied Asylum Seekers	15
Lot C - Accommodation for families and individuals with no recourse to public funds	7

- 3.6 Consultation with young people in SIA was carried out in 2020 to inform the recommissioning of this service. The full consultation report is provided at Appendix 2 of this report. Twenty-one young people contributed their views either via a survey or in face to face discussions via Zoom. A summary of their feedback is below:
- All young people described their accommodation as 'good' or 'very good'.
 - The main issues young people found not so good were early curfews and poor internet connectivity.

- c. All young people feel they are encouraged and supported to develop skills to help them live independently, including support around finances and budgeting, cooking, household skills and how to access Employment and Education.
- d. All young people generally feel well supported by the support staff within the service. 82% of young people felt they were given lots of information on how to access their local community, e.g. transport, health services and activities.
- e. 67% felt that they only had a partial involvement in where they were placed, or no influence over the decision.
- f. All young people advised they feel safe within their accommodation with CCTV, support staff being on site and knowing there is someone to contact if there is a problem that is important to them.
- g. 83% of Young People responded that they do not need any additional support around their mental health needs or were already receiving the support they need.

3.7 Nationally, the number of children in care aged 16 or 17 placed in unregulated settings has increased from 2,900 in 2009 to 6,100 in 2019. In Essex over the last 4 years, the monthly volumes of young people accommodated in SIA provision have increased from 80 young people in April 2017 to 109 in July 2020. This is due to increases in placements into both Lots A and B. There have been on average 4 placements per month into Lot C as, due to the short-term nature of these placements, there is an average of 7 placements ongoing at any one time and this is forecast to increase slowly in line with overall numbers.

3.8 When the current framework was approved by Cabinet in 2017 (FP/721/01/17), spend was forecast to increase annually to a minimum of £25 million over 4 years. The actual spend through the framework has increased, but is less than forecast at £22.04 million as set out in Table 2 below:

Table 2: Spend via each Lot of the current framework, 2017 – 2021

LOT	2017-18 £000	2018-19 £000	2019-20 £000	2020-21 Forecast £000
Lot A (including where young person has stayed in SIA for limited period 18+)	2,535	3,015	4,874	4,826
Lot B (including where UASC has stayed in SIA for limited period 18+)	947	1,432	1,960	2,046
Lot C	76	90	139	104
TOTAL FRAMEWORK SPEND	3,558	4,537	6,973	6,976

- 3.9 The forecast increase in spend for the new framework agreement is likely to be due to the following factors:
- a. Increasing numbers of UASC placements

- b. An increase in the support hours for UASC, based on their assessed need, over and above the 2 hours per week stipulated in the current specification.
 - c. An increase in the number of intensive support placements made into Lot D. When the current framework commenced there were limited intensive support placements; however currently there are 13 such placements which have been made into Lot A.
- 3.10 As part of the Council's Fostering Strategy, further investment in in-house Supported Lodgings has been agreed, with a target of creating an additional 10 Supported Lodgings bed-spaces annually. This investment is expected to result in a cumulative decrease in placements into SIA of 10 annually from 2021 (30 over a 3-year period), which is factored into the forecast spend for the new framework agreement.
- 3.11 Numbers of looked after children are predicted to rise slowly in Essex due to an increase in the population of 0-18-year olds; numbers in SIA are likewise forecast to increase. However, when offset against the intended increase in Supported Lodgings placements over the forthcoming 4 years, these increases are forecast to be moderately small, as can be seen in Table 3 below:

Table 3 – Forecast Placement Volumes

LOT	Forecast Volumes			
	2021/22	2022/23	2023/24	2023/24
A	48	54	59	64
B	101	105	115	127
C	7	8	8	10
D	14	15	16	17

- 3.12 In consideration of all the areas outlined in this section 3, the recommended option includes the following amendments to the current framework agreement:
- Addition of Lot D for young people with the most complex needs that require extended, intensive support and supervision;
 - Flexible support for UASC placed via Lot B during their initial 4-6 weeks in the country; and
 - Quality requirements for providers that meet the proposed government national standards.
- 3.13 It is proposed that the procurement will be carried out using a single-stage, open tendering process via the Council's e-sourcing portal, advertised via the government Find A Tender service, Contracts Finder and on the Council's opportunities listings website. The procurement will be evaluated using the high-level criteria of 40% for price and 60% for quality. Social value will be incorporated within the quality element with the precise weighting to be determined. The rationale for this is as follows:
- The current framework was awarded with this price/quality weighting and has delivered both quality provision and value for money for the Council.

- Admission onto the framework is no guarantee that a placement will be made, and the quality of available placements is key therefore it is recommended that 60% of the weighting evaluates the quality of the service to be provided.
- Price will carry significant weighting at call-off stage therefore, where there is more than one provider able to meet the placement requirements, the contract will be awarded to the provider with the lowest price. The final evaluation criteria will be published as part of the tender documentation and corresponding procurement notices.

4. Options

Option 1 (recommended option): To commission a Framework for the provision of SIA in four Lots for the following cohorts:

Lot A - Semi-independent accommodation and support for eligible and relevant young people and young people in care aged 16 and 17.

Lot B - Semi-independent accommodation and support for UASC aged 16 and 17.

Lot C - Accommodation for families and individuals with NRPF

Lot D - SIA and support for eligible and relevant young people and young people in care aged 16 and 17, who have complex needs that require extended, intensive support and supervision.

<u>Benefits</u>	<u>Risks</u>
<p>Provides a flexible and compliant mechanism that will support the Council to meet its statutory duties.</p> <p>Keeps the most vulnerable young people safe through the addition of a Lot D to cater for increased support needs with requirements specific to this Lot.</p> <p>Better meets the need of UASC, through flexible support that can be increased during their initial weeks in the country, based on need.</p> <p>Will help the Council meet national quality standards for unregulated provision, should these be implemented by the government during the framework term.</p> <p>Increase range and choice of suitable placements, through enabling new providers, many of whom are SMEs to enter the market.</p>	<p>Issues with quality of accommodation or support. This will be mitigated through:</p> <ul style="list-style-type: none"> • quality standards set out in specification; • regular monitoring by the Children & Young People's Placement Service (CYPPS). <p>Challenge from Ofsted regarding intensive support SIA placements and whether these are considered 'care' and therefore should be registered. This will be mitigated through:</p> <ul style="list-style-type: none"> • CYPPS adherence to ECC's practice guidance for use of unregulated provision; • Inclusion of Ofsted supported accommodation checklist in specification to clarify that the service being proposed or provided is 'support' and not 'care'.

A framework agreement provides greater financial control and prevents more costly spot purchases.	
Option 2 (not recommended): Recommission a framework to the same requirements and for the same lots as the current framework	
<u>Benefits</u>	<u>Risks</u>
Minimises resource spent on the commissioning process.	<p>Increasing risk of challenge from Ofsted if increasing numbers of intensive / complex support packages continue to be made into Lot A, without this being reflected in the specification.</p> <p>Risk of cost escalation as providers negotiate 'intensive support' rates on a case by case basis.</p> <p>Risk of UASC not receiving support that meets their needs following the initial age assessment process, due to the specification requirements in the current Lot B.</p> <p>Issues with quality of accommodation or support. Mitigated through:</p> <ul style="list-style-type: none"> Regular monitoring by the Children & Young People's Placement Service (CYPPS).
Option 3 (not recommended): Do nothing	
<u>Benefits</u>	<u>Risks</u>
None identified	<p>Cost escalation through non-compliant spot purchasing of placements.</p> <p>Impairs ECC's ability to deliver on statutory duties.</p> <p>Poor quality placements or inappropriate support for young people due to lack of ability to quality assure or hold providers accountable.</p>

	Risk of reputational damage for the Council if young people are placed in unsafe settings.
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5. Links to Essex Vision

5.1 This report links to the following aims in the Essex Vision:

- Provide an equal foundation for every child
- Strengthen communities through participation
- Connect us to each other and the world

5.2 This report links to the following strategic aims and priorities in the Council's Organisational Strategy 2017-21:

- Help people get the best start and age well
- Help keep vulnerable children safer and enable them to fulfil their potential

6. Issues for consideration

6.1 Financial implications

6.1.1 The financial projections are set out in the table in section 6.1.4 below and assume an average number of places to be funded across the full financial year to meet demand. Total forecast expenditure is expected to be a minimum of £30.5m over the 4-year period.

6.1.2 As per para 3.10, investment into in-house Supported Lodgings has been agreed, with a target of creating an additional 10 Supported Lodgings bed-spaces annually. This investment is expected to result in a cumulative decrease in placements into SIA of 10 annually from 2021 (30 over a 3-year period and so therefore reflects cost avoidance (since volumes ultimately increase).

6.1.3 By adopting the recommended option, the need to spot purchase placements is minimised. This has the associated benefits of preventing the uncertainty and potential cost increases when using such spot purchasing arrangements. The inclusion of the additional lot to support young people who require more intensive support also allows for better governance and certainty of cost.

6.1.4 The table below reflects the forecast spend through the proposed framework. The forecast volumes are based on insight and so will change as cohorts and lots flex, this will be monitored on an ongoing basis. In addition, UASC expenditure relating to LOT B and C is offset by grant income from the Home Office, which is used to provide accommodation and support, through a rate of £114 per day. The net cost of the framework is reflected in the Medium-Term

Resources Strategy. Budget allocated for Non UASC placements across the current MTRS period is £5.1m in 2021/22 to £5.4m in 2023/24.

Lot	2021/22		2022/23		2023/24		2024/25	
	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000
A SIA	48	2,354	54	2,622	59	2,857	64	3,137
B UASC SIA	101	1,984	105	2,079	115	2,289	127	2,577
C NRtPF	7	106	8	116	8	129	10	147
D High Needs Support	14	2,261	15	2,457	16	2,581	17	2,793
Total	170	6,705	182	7,274	197	7,856	219	8,654

Non UASC	62	4,615	69	5,079	74	5,438	82	5,930
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6.2 Legal implications

6.2.1 Supported Accommodation Services fall within ‘social and other specific services’ within Schedule 3 of Public Contracts Regulations 2015 (the “Regulations”) and the total value of the call-off contracts is expected to significantly exceed the current threshold amount of £663,540. As a result, the procurement of a framework for the provision of SIA for Looked After Children, is subject to Section 7 of the Regulations and will require a tender which is compliant with all applicable legislation. Establishing the framework agreement as described in this report will support the Council in delivering on its statutory obligations as set out in this report.

6.2.2 SIA is unregulated provision meaning that providers are not required to be registered with Ofsted or the Care Quality Commission (CQC) and are not subject to statutory regulation. S22D Children Act 1989 enables all local authorities to use this type of provision for some of the 16 and 17-year-old young people in their care if the local authority has decided to do so as a consequence of a looked after child review in consultation with the Independent Reviewing Officer or is satisfied that it is necessary in order to safeguard the welfare of a looked after child (a) to make such arrangements; and (b) to do so as a matter

of urgency. The Council will ensure that the contractual arrangements will include requirements that ensure the quality of the provision provided under the framework.

7. Equality and Diversity implications

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, gender, 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 equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7.4 The equality impact assessment identifies the following positive impacts on certain protected characteristics in relation to the recommended option:

- Age - This is a service specifically for young people in care aged 16 and 17. The availability of SIA increases the likelihood of a suitable placement being able to be found for this age group.
- Ethnicity - Nearly 50% of young people in SIA are BAME. SIA provides placements for a significant proportion of unaccompanied asylum-seeking children (UASC) entering care in Essex. Providers are skilled and experienced at meeting the cultural needs of diverse groups of young people and in the use of translators and interpreters where this is required. Feedback from UASC young people has been very positive and they feel supported to access education, learn English and learn the cultural customs of this country.
- Religion/belief - Many UASC in particular have religious beliefs that are important for them and these are taken into account when matching so that for example a Mosque is easily within reach of the young person's placement. Providers are experienced in working with a diverse range of backgrounds, cultures and religions and supporting young people to be able to practice their faith in the way that they wish.

8. List of appendices

Appendix One: EQIA

Appendix Two: Consultation Report

9. List of Background papers

Looked After Children Sufficiency Strategy 2018-22

Children in Care and Leaving Care Partnership Strategy 2018-21